DISTRIBUTION LIST

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND,
SERIES 2008 A (STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

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SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

TRANSCRIPT LIST

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1. Bond Resolution.
2. Supplemental Resolution.
3. Loan Agreement for Bond.
4. Loan Agreement for Note.
5. Public Service Commission Order.
6. Infrastructure and Jobs Development Council Approval.
7. Cross-Receipt for Bond and Bond Proceeds.
8. Request and Authorization to Authenticate and Deliver Bond.
9. Specimen Bond, Specimen Note and Register.

B. OPINIONS OF COUNSEL

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11. Opinion of Counsel to Issuer.
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13. General Certificate.
14. Certificate of Engineer with Schedule A Attached.

15. Certificate of Certified Public Accountant.

16. Certificate of Secretary as to Truth and Accuracy of Documents Delivered.

17. Certificate as to Use of Proceeds.

D. DOCUMENTS OF THE ISSUER

18. County Commission Order Creating Elk Valley Public Service District.

19. County Commission Orders Appointing Board Members.

20. Oaths of Office of Board Members.

21. Rules of Procedure.

22. Minutes of Current Year Organizational Meeting.

23. Minutes on Adoption of Bond Resolution and Supplemental Resolution.

24. Affidavit of Publication of Abstract of Bond Resolution.

25. Municipal Bond Commission New Issue Report.

E. MISCELLANEOUS DOCUMENTS

26. Acceptance of Appointment of Depository Bank.

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28. Registrar's Agreement.

29. Certificate of Registration.

30. 1987 Bond Resolution.

31. 1990 Bond Resolution.

32. Water Development Authority Consent to Issuance of Parity Bonds.

33. Closing Memorandum.

34. Evidence of Insurance.

35. NPDES Permit.

36. Tariff

37. Copies of Statutory Authorities.

The Pre-closing of the sale of the $18,061,117 Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund) and $1,183,677 Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), will take place at the West Virginia Water Development Authority's office at 180 Association Drive in Charleston, West Virginia, at 2:00 p.m., prevailing time on August 11, 2008. The Closing will occur on August 12, 2008. No transaction shall be deemed to have been completed, and no documents shall be deemed to have been delivered unless or until all transactions are complete and all documents delivered.

ELK VALLEY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF ELK VALLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $18,061,117 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER REVENUE BOND, SERIES 2008 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN $1,183,677 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B (WEST VIRGINIA WDA PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNER OF SUCH BOND AND NOTE; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BOND AND NOTE; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BOND AND NOTE; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF ELK VALLEY 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 Code of West Virginia, 1931, as amended (the "Bond Act"), Chapter 22C, Article 1 of the Code of West Virginia, 1931, as amended (the "WDA Act"), and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "SRF Act", and together with the Bond Act and the WDA Act, collectively, the "Act"), and other applicable provisions of law.

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

A. Elk Valley Public Service District (the "Issuer") is a public service district and a public corporation and political subdivision of the State of West Virginia in Kanawha County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain improvements and extensions to the existing public sewerage facilities of the Issuer, consisting of upgrading the existing wastewater treatment plant to treat additional wastewater flow and to meet regulatory discharge permit limitations, upgrading six (6) existing wastewater lift stations, and related appurtenances (collectively, the "Project"), which constitute properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewerage facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System").

C. The Issuer intends to permanently finance a portion of the costs of acquiring, constructing and equipping the Project through the issuance of its revenue bond to be sold to the West Virginia Water Development Authority (the "Authority"), in connection with the West Virginia Water Pollution Control Revolving Fund Program (the "SRF Program"), pursuant to the SRF Act, in order to take advantage of the favorable terms available to the Issuer under the SRF Program.

D. The Issuer intends to temporarily finance a portion of the costs of acquiring, constructing and equipping the Project through the issuance of its grant anticipation note to be sold to the West Virginia Water Development Authority (the "Authority").

E. It is deemed necessary for the Issuer to issue its Sewer Revenue Bond, Series 2008 A (West Virginia SRF Program), in the aggregate principal amount of not more than $18,061,117 (the "Series 2008 Bond"), initially to be represented by a single bond, to permanently finance a portion of the costs of acquiring, constructing and equipping of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefore; interest upon the Series 2008 Bond prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 2008 Bond Reserve Account (as hereinafter defined); engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, commitment fees, fees and expenses of the Authority, including the SRF Administrative Fee, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2008 Bond and such other expenses as may be necessary or incidental to the financing herein authorized, the cost of acquiring,

constructing and equipping the Project, 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 2008 Bond or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

F. It is deemed necessary for the Issuer to issue its Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), in the aggregate principal amount of not more than $1,183,677 (the "Series 2008 Note"), initially to be represented by a single note, to temporarily finance a portion of the costs of acquiring, constructing and equipping of the Project.

G. The balance of the funding for the Project will come from a $350,000 grant from the Kanawha County Commission and a $165,000 contribution of the Issuer's own funds.

H. The period of usefulness of the System after the completion of the Project is not less than 40 years.

I. It is in the best interests of the Issuer that its Series 2008 Bond be sold to the Authority pursuant to the terms and provisions of a bond purchase agreement by and among the Issuer, the Authority and the West Virginia Department of Environmental Protection (the "DEP"), in form satisfactory to the Issuer, the Authority and the DEP (the "Bond Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

J. It is in the best interests of the Issuer that its Series 2008 Note be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority (the "GAN Loan Agreement" and, together with the Bond Loan Agreement, the "Loan Agreements"), in form satisfactory to the Issuer and the Authority, approved hereby if not previously approved by resolution of the Issuer.

K. There are outstanding obligations of the Issuer which will rank on parity with the Series 2008 Bond and senior and prior to the Series 2008 Note as to liens, pledge and source of and security for payment, which obligations are designated as follows:

a. $5,227,400 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987A (the "Series 1987A Bond");

b. $1,388,390 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990A (the "Series 1990A Bond").

The Series 1987A Bond and the Series 1990A Bond are hereinafter collectively called the "Parity Prior Bonds."

The Series 2008 Bond shall be issued on parity with the Parity Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the coverage and parity requirements of the Parity Prior Bonds and the resolutions authorizing the Parity Prior Bonds for issuance of the Series 2008 Bond 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. Prior to the issuance of the Series 2008 Bond, the Issuer will obtain the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Parity Prior Bonds are met and the written consent of the Holder of the Parity Prior Bonds to the issuance of the Series 2008 Bond on a parity with the Parity Prior Bonds. Except as noted below in L., and other than the Parity Prior Bonds, there are no outstanding bonds or obligations of the Issuer that are secured by revenues or assets of the System.

L. There are outstanding obligations of the Issuer which will rank junior and subordinate to the Series 2008 Bond and senior and prior to the Series 2008 Note as to liens, pledge and source of and security for payment, which obligations are designated as follows:

c. $1,282,163 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987B (the "Series 1987B Bond"); and

d. $62,701 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990B (the "Series 1990B Bond").

The Series 1987B Bond and the Series 1990B Bond are hereinafter collectively called the "Subordinate Prior Bonds."

The Series 2008 Bond shall be issued senior and prior to the Subordinate Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer will obtain the written consent of the Holder of the Subordinate Prior Bonds to the issuance of the Series 2008 Bond.

M. The estimated revenues to be derived in each year following completion of the Project will be sufficient to pay all costs of operation and maintenance of the System and the principal of and interest, if any, on the Series 2008 Bond, the Series 2008 Note, the Parity Prior Bonds and the Subordinate Prior Bonds, and to make payments into all Sinking Funds, Reserve Accounts and other payments provided for herein, all as such terms are hereinafter defined.

N. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction

and equipping of the Project, the operation of the System and the issuance of the Series 2008 Bond and the Series 2008 Note, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2008 Bond and the Series 2008 Note or such final order will not be subject to appeal or rehearing.

O. The Project has been approved by the West Virginia Infrastructure and Jobs Development Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2008 Bond and the Series 2008 Note 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 Registered Owners, 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 such Series 2008 Bond, 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, Chapter 22C, Article 1 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2008 Bond and the Series 2008 Note, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly selected by the Governing Body.

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

"Bond Loan Agreement" means the bond purchase agreement heretofore entered, or to be entered, into by and among the Authority, the DEP and the Issuer, providing for the purchase of the Series 2008 Bond from the Issuer by the Authority, the

form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

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

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

"Bonds" means, collectively, the Series 2008 Bond, the Prior Bonds, and any bonds on parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 2008 Bond and the Series 2008 Note for all or a portion of the proceeds of the Series 2008 Bond and the Series 2008 Note from the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

"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.

"Completion Date" means the completion date of the Project, as defined in the SRF Regulations.

"Consulting Engineers" means Ghosh Engineers, Inc., Charleston, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State or any of its agencies, commissions, or political subdivisions.

"Costs" or "Costs of the Project" means those costs described in Section 1.02E hereof to be a part of the cost of designing, acquiring, constructing and equipping the Project.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

"DEP" means the West Virginia Department of Environmental Protection, or any other agency, board or department of the State that succeeds to the functions of the DEP.

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

"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.

"GAN Loan Agreement" means the Grant Loan Agreement heretofore entered, or to be entered, into by and between the Authority and the Issuer, providing for the purchase of the Series 2008 Note from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"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.

"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 Article 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" means any certified public accountant or firm of 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" means

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any 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.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means Elk Valley Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Kanawha County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

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

"Nonpurpose Investment" means any Investment Property, as defined in Section 148(b) of the Code, that is not a purpose investment.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, the SRF Administrative Fee, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the 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 and 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 hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders, any bonds registered to the Issuer.

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

"Paying Agent" means the Commission or other entity designated as such for the Series 2008 Bond and the Series 2008 Note in the Supplemental Resolution with the written consent of the Authority and the DEP.

"Prior Bonds" means, collectively, the Parity Prior Bonds and the Subordinate Prior Bonds, as described in Section 1.02K and L. hereof.

"Prior Resolutions" means, individually or collectively, the resolution of the Issuer adopted August 18, 1987, authorizing the Series 1987A and Series 1987B Bonds, and the resolution of the Issuer adopted June 12, 1990, authorizing the Series 1990A and Series 1990B Bonds.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

"Project" means the Project as described in Section 1.02B hereof.

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate

Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

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

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

(g) Repurchase agreements or similar banking arrangements, fully secured by investments of the types described in paragraphs (a) through (e) above or fully insured by the FDIC, with member banks of the Federal Reserve system or 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 therefore; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the Code of West Virginia, 1931, as amended, including, without limitation, authorized pools of investments operated by such Investment Management Board; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registrar" means the Bond Registrar.

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolution and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2008 Bond and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in any reserve account for the Series 2008 Bond and the Prior Bonds.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued hereby.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 2008 Bond" means the Sewer Revenue Bond, Series 2008 A (West Virginia SRF Program), of the Issuer, authorized by this Resolution.

"Series 2008 Construction Trust Fund" means the Series 2008 Construction Trust Fund established by Section 5.01 hereof.

"Series 2008 Bond Reserve Account" means the Series 2008 Bond Reserve Account established by Section 5.02 hereof.

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

"Series 2008 Bond Sinking Fund" means the Series 2008 Bond Sinking Fund established by Section 5.02 hereof.

"Series 2008 Note" means the Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), of the Issuer, authorized by this Resolution.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 2008 Bond and the Prior Bonds.

"SRF Administrative Fee" means any administrative fee required to be paid under the Bond Loan Agreement.

"SRF Program" means the State's Water Pollution Control Revolving Fund Program, under which the Authority purchases the water pollution control revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of a capitalization grant award from the United States Environmental Protection Agency and funds of the State.

"SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2008 Bond and the Series 2008 Note; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2008 Bond and the Series 2008 Note, 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 2008 Bond and 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 properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

Additional terms and phrases are defined in this Resolution as they are used. 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; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition, construction and equipping of the Project, at an estimated cost of $19,759,794, in accordance with the plans and

specifications which have been prepared by the Consulting Engineers, approved by the DEP and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2008 Bond and the Series 2008 Note hereby authorized shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the construction of the Project, compatible with the financing plan submitted to the SRF Program.

The cost of acquisition and construction of the Project is estimated to be $19,759,794, of which $18,061,117 will be obtained from the proceeds of the Series 2008 Bond, $1,183,677 will be obtained from the Series 2008 Note, $350,000 will come from a grant from the Kanawha County Commission, and $165,000 will come from a contribution of the Issuer's own funds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BOND AND NOTE; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENTS

Section 3.01. Authorization of Bond. For the purposes of funding a reserve account for the Series 2008 Bond, paying costs of constructing the Project not otherwise provided for and paying certain costs of issuance of the Series 2008 Bond 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 a negotiable Series 2008 Bond of the Issuer. The Series 2008 Bond shall be issued as a single bond, designated as "Sewer Revenue Bond, Series 2008 A (West Virginia SRF Program)," in the principal amount of not more than $18,061,117, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2008 Bond remaining after funding the Series 2008 Bond Reserve Account (if funded from Bond proceeds) shall be deposited in or credited to the Series 2008 Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bond. The Series 2008 Bond 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 Loan Agreement. The Series 2008 Bond 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 2008 Bond, 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 2008 Bond shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2008 Bond, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2008 Bond shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in an aggregate principal amount equal to the amount of said Bond then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bond; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.03. Authorization of Note. For the purposes of paying costs of constructing the Project not otherwise provided for and paying certain costs of issuance of the Series 2008 Note 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 a negotiable Series 2008 Note of the Issuer. The Series 2008 Note shall be issued as a single note, designated as "Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)," in the principal amount of not more than $1,183,677, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2008 Note shall be deposited in or credited to the Series 2008 Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.04. Terms of Note. The Series 2008 Note shall be issued in such principal amount; shall bear interest at such rate or rates, not exceeding the then legal maximum rate, payable at maturity; shall mature on such date and in such amount; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Series 2008 Note shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the date 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 2008 Note 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 2008 Note shall be issued in the form of a single note, fully registered to the Authority, with a record of advances, representing the aggregate principal amount of the Series 2008 Note, and shall mature in twenty-four (24) months, or as provided in the Supplemental Resolution. The Series 2008 Note shall be exchangeable at the option and expense of the Registered Owner for another fully registered Note or Notes of the same series in an aggregate principal amount equal to the amount of said Note then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the date of payment of the principal installment of said Note; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 3.05. Execution of Bond and Note. The Series 2008 Bond and the Series 2008 Note 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 the Series 2008 Bond and the Series 2008 Note shall cease to be such officer of the Issuer before the Series 2008 Bond and the Series 2008 Note so signed and sealed have been actually sold and delivered, such bond and note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such bond and note had not ceased to hold such office. Any Series 2008 Bond and Series 2008 Note may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such bond and note shall hold the proper office in the Issuer, although at the date of such bond and note such person may not have held such office or may not have been so authorized.

Section 3.06. Authentication and Registration. No Series 2008 Bond and Series 2008 Note 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 and note, substantially in the form set forth in Section 3.12 hereof, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such bond and note shall be conclusive evidence that such bond and note has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2008 Bond and Series 2008 Note 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 and notes issued hereunder.

Section 3.07. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2008 Bond and the Series 2008 Note 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 the Series 2008 Bond and the Series 2008 Note shall be conclusively deemed to have agreed that such bond and note 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 and note shall be incontestable in the hands of a bona fide holder for value.

So long as the Series 2008 Bond and the Series 2008 Note remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the same.

The registered Series 2008 Bond and Series 2008 Note 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 the Series 2008 Bond and the Series 2008 Note or transferring the registered Series 2008 Bond and Series 2008 Note is exercised, the Series 2008 Bond and the Series 2008 Note shall be delivered in accordance with the provisions of this Bond Legislation. The Series 2008 Bond and Series 2008 Note surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of the Series 2008 Bond and Series 2008 Note, 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 and note 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 2008 Bond and Series 2008 Note during the period commencing on the 15th day of the month next preceding an interest payment date, if any, on the Series 2008 Bond and Series 2008 Note or, in the case of any proposed redemption of the Series 2008 Bond and Series 2008 Note, next preceding the date of the selection of the portion of the Series 2008 Bond and Series 2008 Note to be redeemed, and ending on such interest payment date or redemption date.

Section 3.08. Bond or Note Mutilated, Destroyed, Stolen or Lost. In case a bond or note 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 or note of the same series and of like tenor as the bond or note so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated bond or note, upon surrender and cancellation of such mutilated bond or note, or in lieu of and substitution for the bond or note 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. The bond or note so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such bond or note shall have matured or be about to mature, instead of issuing a substitute bond or note, the Issuer may pay the same, upon being indemnified as aforesaid, and if such bond or note be lost, stolen or destroyed, without surrender thereof.

Section 3.09. Bond and Note not to be Indebtedness of the Issuer. The Series 2008 Bond and the Series 2008 Note 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, in the case of the Series 2008 Bond only, from the Net Revenues derived from the operation of the System as herein provided. No holder or holders of the Series 2008 Bond and the Series 2008 Note shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2008 Bond, the Series 2008 Note or the interest, if any, thereon.

Section 3.10. Bond Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2008 Bond shall be secured by a first lien on the Net Revenues derived from the System, on parity with the lien on such Net Revenues in favor of the Holder of the Parity Prior Bonds and senior and prior to the lien on such Net Revenues in favor of the Holder of the Subordinate Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Prior Bonds and the Series 2008 Bond and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.11. Note Secured by Pledge of Grant Proceeds and Surplus Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2008 Note shall be secured by a first lien on grant proceeds received by the Issuer in the amount of $1,183,677 and used to pay a portion of the cost of the Project and Surplus Revenues derived from the System, junior and subordinate to the lien on Net Revenues in favor of the Holder of the Prior Bonds.

Section 3.12. Delivery of Bond and Note. The Issuer shall execute and deliver the Series 2008 Bond and the Series 2008 Note to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2008 Bond and the Series 2008 Note to the original purchasers upon receipt of the documents set forth below:

A. If other than the Authority, a list of the names in which the Series 2008 Bond and the Series 2008 Note 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 2008 Bond and the Series 2008 Note to the original purchasers;

C. An executed and certified copy of the Bond Legislation;

D. Executed copy of the Loan Agreements; and

E. The unqualified approving opinion of bond counsel on the Series 2008 Bond and the Series 2008 Note.

Section 3.13. Forms of Bond and Note. The text of the Series 2008 Bond and the Series 2008 Note shall be in substantially the following forms, 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 BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $18,061,117

KNOW ALL MEN BY THESE PRESENTS: That ELK VALLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Kanawha County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of SIXTEEN MILLION ONE HUNDRED THIRTY THOUSAND THREE HUNDRED TWENTY-THREE DOLLARS ($18,061,117), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, as set forth on EXHIBIT B attached hereto.

This Bond shall bear no 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 Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Bond Loan Agreement by and among the Issuer, the Authority and the DEP, dated July 30, 2008.

This Bond is issued (i) to pay a portion of the costs of acquiring, constructing and equipping certain improvements and extensions to the existing public sewerage facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer, the improvements and extensions constructed by the Project and any further improvements or extensions 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 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on July 29, 2008, and a Supplemental Resolution duly adopted by the Issuer on July 29, 2008 (collectively, 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 security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) $5,227,400 SEWERAGE SYSTEM REVENUE BOND, SERIES 1987A, AND (2) $1,388,390 SEWERAGE SYSTEM REVENUE BOND, SERIES 1990A (COLLECTIVELY, THE "PARITY PRIOR BONDS"). THIS BOND IS SENIOR AND PRIOR AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (3) $1,282,163 SEWERAGE SYSTEM REVENUE BOND, SERIES 1987B, AND (4) $62,701 SEWERAGE SYSTEM REVENUE BOND, SERIES 1990B (COLLECTIVELY, THE "SUBORDINATE 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 a parity with the pledge of Net Revenues in favor of the holder of the Parity Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2008 Bond Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds that may be issued pursuant to the Act and 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 hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2008 Bond Reserve Account and unexpended proceeds of this Bond. 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 this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Parity Prior Bonds; provided however, that so long as there exists in the Series 2008 Bond Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Parity Prior Bonds, an amount at least equal to the

requirement therefore, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owner of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owner of this Bond 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 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 payment of the costs of constructing the Project and costs of issuance hereof 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 at the issuance of this Bond do exist, 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 Net 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, ELK VALLEY 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 August 12, 2008.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2008 Bond 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: August 12, 2008.

UNITED BANK, INC., as Registrar

By: _____
Vice President

(Form of)

EXHIBIT A

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $903,056.00	8/12/08	(6) $	
(2) $		(7) $	
(3) $		(8) $	
(4) $		(9) $	
(5) $		(10) $	

TOTAL $_____

EXHIBIT B

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:

_____

(FORM OF NOTE)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B
(WEST VIRGINIA WDA PROGRAM)

No. BR-1 $1,183,677

INTEREST RATE	MATURITY DATE	NOTE DATE
3.00%	August 12, 2010	August 12, 2008

REGISTERED OWNER: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

PRINCIPAL AMOUNT: ONE MILLION ONE HUNDRED EIGHTY-THREE THOUSAND SIX HUNDRED SEVENTY-SEVEN DOLLARS

KNOW ALL MEN BY THESE PRESENTS: That on the 12th day of August, 2008, the ELK VALLEY PUBLIC SERVICE DISTRICT, a public corporation organized and existing under the laws of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Note Date specified above, at the Interest Rate per annum specified above, at the Maturity Date specified above or until the date this Note is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the same meanings set forth in the hereinafter described Resolution.

Interest accruing on this Note on and prior to the Maturity Date hereof shall be payable by check or draft mailed by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof at the address of such Registered Owner as it appears on the registration books of the District maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), and shall be paid when due upon presentation and surrender of this Note.

This Note, in the aggregate principal amount of $1,183,677, is designated "Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)" (the "Note"). The proceeds are to be used to (i) temporarily finance the costs of design, acquisition and construction of certain additions, betterments and improvements to the sewer system of the Issuer; and (ii) pay costs of issuance hereof and related costs. The Note 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 and Chapter 22C, Article 1 of the West Virginia Code of 1931, as amended (the "Act"), and a resolution duly adopted by the public service board of the Issuer on July 29, 2008, as supplemented by a Supplemental Resolution duly adopted by the board on July 29, 2008 (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. Reference is hereby made to the Resolution, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent and the Registered Owner of the Note. An executed counterparts or certified copy of the Resolution is on file at the office of the District.

The Note is subject to extraordinary and optional redemption prior to the Maturity Date stated above, as provided in the Resolution and as set forth below:

Extraordinary Redemption

If there should occur any damage to or destruction of the System or any condemnation of title to or the use of the System, the Note shall be subject to redemption at any time at the redemption price of 100% of the principal amount thereof plus accrued interest to the Redemption Date from any condemnation awards or insurance proceeds that are not used to repair, rebuild or rearrange the System.

Optional Redemption

The Note is subject to redemption at the option of the District, prior to maturity, in whole or in part at any time from amounts deposited with the Bond Commission by the District or from other funds available therefore at a redemption price equal to the principal amount thereof, plus accrued interest to the date fixed for redemption.

THIS NOTE HAS NO LIEN ON THE GROSS OR NET REVENUES OF THE SYSTEM.

The Note and the interest thereon are payable only from and are secured by a first lien on the proceeds of a grant or grants made available to the Issuer subsequent to the issuance of the Note to permanently finance the costs of design, acquisition and construction of the Project and Surplus Revenues. The monies from this source shall be deposited into the Note Fund established under the Resolution. This Note does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except as set forth in the Resolution. The Issuer has entered into certain covenants with the Registered Owner, for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of the Note are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

All monies received from the sale of the Note shall be applied solely to pay all costs of the Project and to pay all costs of issuance of the Note, and there shall be, and

hereby is, created and granted a lien upon such monies, until so applied, in favor of the Registered Owner.

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 Note have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Note, together with all other obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

This Note, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the Ordinance.

This Note is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality or county commission, political subdivision or agency thereof.

This Note shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, ELK VALLEY PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairman and Secretary, and its corporate seal to be imprinted hereon and affixed hereto, and has caused this Note to be dated as of the Note Date specified above.

ELK VALLEY PUBLIC SERVICE DISTRICT

[SEAL]

By: _____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is the Series 2008 Note 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: August 12, 2008.

UNITED BANK, INC., as Registrar

By: _____
Vice President

(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:

_____

Section 3.14. Sale of Bond; Approval and Ratification of Execution of Bond Loan Agreement. The Bond Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved. The Series 2008 Bond shall be sold to the Authority, pursuant to the terms and conditions of the Bond Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Bond Loan Agreement in the form attached hereto as "EXHIBIT A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Bond Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.15. Filing of Amended Schedule. Within 60 days following the Completion Date, the Issuer will file with the Authority, the Council and the DEP a schedule, the form of which will be provided by the DEP and/or the Council, setting forth the actual costs of construction of the Project and sources of funds therefore.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. 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 Resolutions) 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); and

(3) Series 2008 Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with 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 2008 Bond Sinking Fund; and

(2) Series 2008 Bond Reserve Account.

Section 5.03. 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 manner and order of priority:

(1) The Issuer shall first each month pay from the Revenue Fund the amount necessary and sufficient to pay current Operating Expenses.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Paying Agent the amounts required by the Prior Resolutions (i) for deposit in the Series 1987 Bonds Sinking Fund for the payment of the interest on the Series 1987 Bonds and (ii) for deposit in the Series 1990 Bonds Sinking Fund for the payment of the interest on the Series 1990 Bonds.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Paying Agent or the Commission the amounts required by the Prior Resolutions (i) for deposit in the Series 1987 Bonds Sinking Fund for payment of the principal of the Series 1987 Bonds; (ii) for deposit in the Series 1990 Bonds Sinking Fund for the payment of the principal of the Series 1990 Bonds; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2008 Bond, remit to the Commission for deposit in the Series 2008 Bond Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2008 Bond on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2008 Bond Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission the amounts required by the Prior Resolutions for deposit in (i) the Series 1987 Bonds Reserve Account; (ii) the Series 1990 Bonds Reserve Account; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2008 Bond, if not fully funded upon issuance of the Series 2008 Bond,

remit to the Commission for deposit in the Series 2008 Bond Reserve Account, an amount equal to 1/120th of the Series 2008 Bond Reserve Requirement; provided that, no further payments shall be made into the Series 2008 Bond 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 2008 Bond Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, from the moneys 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, 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 may 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 moneys from the Renewal and Replacement Fund.

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

All investment earnings on moneys in the Series 2008 Bond Sinking Fund and the Series 2008 Bond Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due, if any, on the Series 2008 Bond, and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2008 Bond Reserve Account which result in a reduction in the balance therein below the Series 2008 Bond 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 2008 Bond 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 2008 Bond Sinking Fund or the Series 2008 Bond Reserve Account therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2008 Bond issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Parity Prior Bonds and the Series 2008 Bond, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2008 Bond Sinking Fund and the Series 2008 Bond Reserve Account created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at anytime, the Issuer shall make the necessary arrangements whereby required payments into the Series 2008 Bond Sinking Fund and the Series 2008 Bond Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Moneys in the Series 2008 Bond Sinking Fund and the Series 2008 Bond Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2008 Bond Sinking Fund, including the Series 2008 Bond Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2008 Bond under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the Series 2008 Bond and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the

provisions of this Bond Legislation. The Issuer shall also on the first day of each month deposit with the Commission the SRF Administrative Fee as set forth in the Schedule Y attached to the Bond Loan Agreement.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Bond Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of such calendar month.

D. 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. From such Surplus Revenues, the Issuer shall next, on the first day of each month, transfer from Surplus Revenues and simultaneously remit to the Commission the amounts required to pay principal of and interest, if any, on the Series 2008 Note. Surplus Revenues may be used for any lawful purpose of the System.

E. 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. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at anytime, make the necessary arrangements whereby such required payments shall be automatically deducted from the Revenue Fund and transferred to the Commission on the dates required.

F. The moneys in excess of the maximum amounts insured by FDIC in any of the 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.

G. 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 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

ARTICLE VI

BOND AND NOTE PROCEEDS

Section 6.01. Application of Bond and Note Proceeds; Pledge of Unexpended Bond and Note Proceeds. From the moneys received from the sale of the Series 2008 Bond and the Series 2008 Note, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2008 Bond and the Series 2008 Note, there shall be deposited with the Commission in the Series 2008 Bond Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2008 Bond Reserve Account.

B. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2008 Bond and the Series 2008 Note, such moneys shall be deposited with the Depository Bank in the Series 2008 Construction Trust Fund and applied solely to payment of costs of construction of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2008 Bond and the Series 2008 Note.

C. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2008 Bond shall be used to fund the Series 2008 Bond Reserve Account, if not funded upon issuance of the Series 2008 Bond, in an amount not to exceed the Series 2008 Bond Reserve Requirement; provided that, in no event shall more than 10% of the proceeds of the Series 2008 Bond be deposited in the Series 2008 Bond Reserve Account. Any remaining proceeds thereafter shall be used as directed by the DEP.

Section 6.02. Disbursements from Construction Trust Fund. On or before the Closing Date, the Issuer shall have delivered to the Authority and the DEP a report listing the specific purposes for which the proceeds of the Series 2008 Bond and the Series 2008 Note will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule. Payments of all Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2008 Construction Trust Fund shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) a completed and signed "Payment Requisition Form," a form of which is attached to the Bond Loan Agreement as Exhibit C in compliance with the construction schedule; and

(2) a certificate, signed by an Authorized Officer and the Consulting Engineers, stating that:

(A) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) Each of such costs has been otherwise properly incurred; and

(D) Payment for each of the items proposed is then due and owing.

Pending such application, moneys in the Series 2008 Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. 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 the Holders of the Series 2008 Bond and the Series 2008 Note. 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 2008 Bond and the Series 2008 Note as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Series 2008 Bond and the Series 2008 Note or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bond and Note not to be Indebtedness of the Issuer. The Series 2008 Bond and the Series 2008 Note shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of the Series 2008 Bond and the Series 2008 Note shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2008 Bond and the Series 2008 Note or the interest, if any, thereon.

Section 7.03. Bond Secured by Pledge of Net Revenues; Lien Position with respect to Parity Prior Bonds; Note Secured by Pledge of Future Grant Receipts and Surplus Revenues. The payment of the debt service of the Series 2008 Bond shall be secured by a first lien on the Net Revenues derived from the System, on

parity with the lien on such Net Revenues in favor of the Holder of the Parity Prior Bonds and senior and prior to the lien on Net Revenues of the Subordinate Prior Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Parity Prior Bonds and the Series 2008 Bond and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation, are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

The payment of the debt service of the Series 2008 Note shall be secured solely by a first lien on the Issuer's receipt of future grant proceeds in the amount of $1,183,677 and used to pay a portion of the cost of the Project and Surplus Revenues. It is anticipated that the Issuer will be the beneficiary of a grant from the West Virginia Infrastructure and Jobs Development Council, which grant proceeds shall be pledged to and used to pay the debt service and interest on the Series 2008 Note.

Section 7.04. Initial 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 Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Final Order of the Public Service Commission of West Virginia entered January 2, 2008, in Case No. 07-1024-PSD-CN, and such rates are hereby adopted.

So long as the Series 2008 Bond and the Series 2008 Note 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 Loan Agreements. In the event the schedule of rates and charges initially established for the System in connection with the Series 2008 Bond and the Series 2008 Note shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements, the Issuer hereby covenants and agrees that it will, to the extent or 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 Loan Agreements.

Section 7.05. Sale of the System. So long as the Series 2008 Note is outstanding, the Issuer shall not dispose of the System. So long as 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 Resolutions. Additionally, so long as the Series 2008 Bond is outstanding and except as otherwise required by law or with the written consent of the Authority and the DEP, 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 fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2008 Bond, immediately be remitted to the Commission for deposit in the Series 2008 Bond Sinking Fund, 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 of and interest, if any, on the Series 2008 Bond. Any balance remaining after the payment of the Series 2008 Bond and interest, if any, 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, 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 therefore, 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 $50,000, 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 $50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit 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 funds 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 $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any 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 2008 Bond. All obligations issued by the Issuer after the issuance of the Series 2008 Bond and payable from the revenues of the System, except such additional parity bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2008 Bond; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2008 Bond, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2008 Bond and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

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

Section 7.07. Parity Bonds. So long as the Parity Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable. Additionally, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2008 Bond pursuant to this Bond Legislation, except with the prior written consent of DEP and the Authority under the conditions and in the manner herein provided (unless less restrictive than the provisions of the Prior Resolutions).

All Parity Bonds issued hereunder shall be on parity in all respects with the Series 2008 Bond.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, acquisition, or construction of extensions and improvements 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, if any, 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, if any, on the following:

(1) The Parity Prior 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 and approved by the Public Service Commission of West Virginia, 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 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 Holder of the Bonds and the Holder of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on 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 revenues of the System is

subject to the prior and superior liens of the Series 2008 Bond on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 2008 Bond.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the 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 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the cost of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the DEP such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the DEP, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of construction of the Project and commencement of operation thereof, or if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

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 Public Service Commission of West Virginia. The Issuer shall maintain separate control accounting records. 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 that 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 Authority and the DEP, or any other original purchasers of the Series 2008 Bond and the Series 2008 Note, and shall mail in each year to any Holder or Holders of the Series 2008 Bond and the Series 2008 Note, 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, and the status of all said funds and accounts.

(C) The amount of any bonds, notes 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, to the extent legally required, in compliance with the applicable OMB Circular or any successor thereto, and the Single Audit Act, or any successor thereto) and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to the Holders of the Series 2008 Bond and the Series 2008 Note, and shall submit said report to the Authority and the DEP, or any other original purchasers of the Series 2008 Bond and the Series 2008 Note. Such audit report submitted to the Authority and the DEP shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance, and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreements and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the DEP and the Authority, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the DEP and the Authority, or their agents and representatives, with access to the System site and System facilities as may be

reasonably necessary to accomplish all of the powers and rights of the DEP and the Authority with respect to the System pursuant to the Act.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in EXHIBIT E of the Bond Loan Agreement or as promulgated from time to time.

Section 7.09. Rates. Prior to the issuance of the Series 2008 Bond and the Series 2008 Note, 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 the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created 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 all 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, if any, on the Series 2008 Bond and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 Bond, including the Parity Prior Bonds; provided that in the event that amounts equal to or in excess of the reserve requirements are on deposit respectively in the Series 2008 Bond Reserve Account and any reserve accounts for obligations on a parity with the Series 2008 Bond, including the Parity Prior Bonds, are funded at least at the requirement therefore, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2008 Bond and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 Bond, including the Parity Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. 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 and shall submit a copy of such budget to the Authority and the DEP within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefore in such budget without a written finding and recommendation by a professional engineer 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 a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the DEP and to any Holder of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority and the DEP and to any Holder of any Bonds, or anyone acting for and on behalf of such Holder of any Bonds.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of construction of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Bond Loan Agreement and forward a copy of such report to the Authority and the DEP by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers in the form attached to the Bond Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the DEP and the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the DEP and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, the DEP and the Issuer at the completion of construction that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a "Performance Certificate," a form of which is attached to the Bond Loan Agreement, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulation, to the DEP when the Project is 90% completed. The Issuer shall at all times provide operation and maintenance of the System in compliance with all State and federal standards.

The Issuer shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator to operate the System during the entire term of the Bond Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 50% completion stage.

Section 7.12. 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 7.13. 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 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee 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 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2008 Bond and the Series 2008 Note 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 repairs and restoration of the damaged or destroyed properties, or for the other purposes provided herein for the 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 Loan Agreements, 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, if any, 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 System facilities 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 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.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project, provided that the amounts and terms of such coverage are satisfactory to the DEP and the Authority. In the event the Bond Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. 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 Division 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 Division 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 therefore.

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 7.17. Completion of Construction; Permits and Orders. The Issuer will cause the Project to be constructed as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer has obtained all permits required by state and federal laws for the construction of the Project and operation of the System, all orders and approvals from the Public Service Commission of West Virginia and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and the operation of the System and all approvals for issuance of the Series 2008 Bond and the Series 2008 Note required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. 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 2008 Bond and the Series 2008 Note 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 2008 Bond and the Series 2008 Note during the term thereof is, under the terms of the Series 2008 Bond and the Series 2008 Note 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 of 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) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Series 2008 Bond and the Series 2008 Note 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 2008 Bond and the Series 2008 Note during the term thereof is, under the terms of the Series 2008 Bond and the Series 2008 Note 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 a Private Business Use, then said excess over said 5% of Net Proceeds of the Series 2008 Bond and the Series 2008 Note 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 2008 Bond and the Series 2008 Note 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 the portion of the Project to which such Private Business Use is related. All of the foregoing shall be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% or $5,000,000 of the Net Proceeds of the Series 2008 Bond and the Series 2008 Note are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to person 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 2008 Bond or the Series 2008 Note to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. If required, the Issuer will timely file all statements, instruments and returns necessary to assure the tax-exempt status of the Series 2008 Bond and the Series 2008 Note 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 (including, without limitation, those deemed necessary by the Authority) so that the interest on the Series 2008 Bond and the Series 2008 Note will be and remain excluded from gross income for federal income tax purposes, and will not take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.19. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2008 Bond and the Series 2008 Note, 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 2008 Bond and the Series 2008 Note, and shall be on a parity, as to the Series 2008 Bond with the statutory mortgage lien in favor of the Holder of the Parity Prior Bonds.

Section 7.20. Compliance with Bond Loan Agreement and Law. The Issuer shall perform, satisfy and comply with all the terms, conditions and requirements of the Bond Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP and the Council with copies of all documents submitted to the Authority.

The Issuer also agrees to comply with all applicable laws, rules and regulations issued by the Authority, the DEP or other state, federal or local bodies in

regard to the construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, 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 Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2008 Bond and the Series 2008 Note or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the DEP and the Authority for written approval. The Issuer shall obtain the written approval of the DEP before expending any proceeds of the Series 2008 Bond held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the DEP before expending any proceeds of the Series 2008 Bond made available due to bid or construction or project underruns. The Issuer shall obtain the written approval of the Authority before expending any proceeds of the Series 2008 Note held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineer. The Issuer shall also obtain the written approval of the Authority before expending any proceeds of the Series 2008 Note made available due to bid or construction or project underruns.

C. The Issuer shall list the funding as being provided by the DEP and the Authority in any press release, publication, program, bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any ground breaking or dedication of the Project.

ARTICLE VIII

INVESTMENTS; USE OF PROCEEDS

Section 8.01. 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 8.01.

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 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 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 as 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 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2008 Bond and the Series 2008 Note from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds; Covenants as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2008 Bond and the Series 2008 Note as a condition to issuance of the Series 2008 Bond and the Series 2008 Note. 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 2008 Bond and the Series 2008 Note as may be necessary in order to maintain the status of the Series 2008 Bond and the Series 2008 Note 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 2008 Bond and the Series 2008 Note that would cause any bonds or notes, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or DEP, as the case may be, from which the proceeds of the Series 2008 Bond or the Series 2008 Note 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, or requested by the Authority or DEP, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2008 Bond and the Series 2008 Note and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2008 Bond and the Series 2008 Note:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 2008 Bond and the Series 2008 Note; 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 2008 Bond and the Series 2008 Note set forth in this Bond Legislation, any supplemental resolution or in the Series 2008 Bond and the Series 2008 Note, 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; or

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners 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 Registered Owners 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 Registered Owners; provided that, all rights and remedies of the Holder of the Series 2008 Bond shall be on parity with the Holder of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond 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 Registered Owner 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 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 revenues 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 Bond 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 Registered Owner 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 Registered Owner of the Bond. 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 completion of the Project and the possession, operation and maintenance of the System

for the sole purpose of the protection of both the Issuer and Registered Owners 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 X

PAYMENT OF BOND AND NOTE

Section 10.01. Payment of Bond and Note. If the Issuer shall pay, or there shall otherwise be paid, to the Holders of the Series 2008 Bond and the Series 2008 Note, 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, the pledge of future grant proceeds 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 2008 Bond and the Series 2008 Note shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2008 Bond and the Series 2008 Note, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2008 Bond and the Series 2008 Note, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2008 Bond and the Series 2008 Note shall be made without the consent in writing of the Registered Owners of the Series 2008 Bond and the Series 2008 Note so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2008 Bond and the Series 2008 Note or the rate of interest, if any, thereon, or in the principal amounts thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein respectively pledged therefore without the consent of the Registered Owners thereof. No amendment or modification shall be made that would reduce the percentage of the principal amounts of the Series 2008 Bond and the Series 2008 Note, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholders as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2008 Bond and the Series 2008 Note from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2008 Bond and the Series 2008 Note, 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 11.03. Severability of Invalid Provisions. If any court of competent jurisdiction should hold any section, paragraph, clause or provision of this Resolution invalid, 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 2008 Bond and the Series 2008 Note.

Section 11.04. Headings, Etc. The headings and catch lines 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 11.05. Conflicting Provisions Repealed; Prior Resolutions. All orders or resolutions, 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 Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.06. 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 at 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 11.07. Public Notice of Proposed Financing. Prior to making formal application to the Public Service Commission of West Virginia for a certificate of public convenience and necessity, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation within or in the immediate vicinity of the Elk Valley Public Service District, a Class II legal advertisement stating:

(a) The maximum amounts of the Series 2008 Bond and the Series 2008 Note to be issued;

(b) The maximum interest rates and terms of the Series 2008 Bond and the Series 2008 Note originally authorized hereby;

(c) The public service properties to be acquired and the cost of the same;

(d) The maximum anticipated rates which will be charged by the Issuer; 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 of West Virginia.

Section 11.08. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 29th day of July, 2008.

ELK VALLEY PUBLIC SERVICE DISTRICT

By: _____
Chairman

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of the ELK VALLEY PUBLIC SERVICE DISTRICT on the 29th day of July, 2008.

Dated: July 29, 2008.

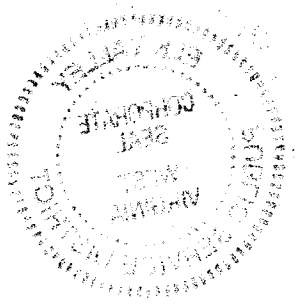
[SEAL]

ELK VALLEY CORPORATE SEAL WEST VIRGINIA PUBLIC SERVICE DISTRICT

_____
Secretary

EXHIBIT A

Loan Agreements included in bond transcript at Tab 3.



ELK VALLEY PUBLIC SERVICE DISTRICT

SEWER REVENUE BOND, SERIES 2008 A
(WEST VIRGINIA SRF PROGRAM)
and
SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B
(WEST VIRGINIA WDA PROGRAM)

BOND RESOLUTION

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$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND
SERIES 2008 A (WEST VIRGINIA SRF PROGRAM)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE ELK VALLEY PUBLIC SERVICE DISTRICT SEWER REVENUE BOND, SERIES 2008 A (WEST VIRGINIA SRF PROGRAM) AND SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B (WEST VIRGINIA WDA PROGRAM); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2008 A BOND TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE SERIES 2008 B NOTE TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE BOND PURCHASE AGREEMENT WITH RESPECT TO THE SERIES 2008 A BOND AND THE LOAN AGREEMENT WITH RESPECT TO THE SERIES 2008 B NOTE; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BOND AND THE NOTE.

WHEREAS, the Public Service Board (the "Governing Body") of Elk Valley Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on July 29, 2008 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF ELK VALLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $18,061,117 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER REVENUE BOND, SERIES 2008 A (WEST VIRGINIA SRF PROGRAM), AND NOT

MORE THAN $1,183,677 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B (WEST VIRGINIA WDA PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNER OF SUCH BOND AND NOTE; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BOND AND NOTE; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BOND AND NOTE; 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 issuance of the Sewer Revenue Bond, Series 2008 A (West Virginia SRF Program) and Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) of the Issuer, in the respective aggregate principal amounts not to exceed $18,061,117 and $1,183,677 (individually, the "Series 2008 A Bond" and the "Series 2008 B Note"), and has authorized the execution and delivery of a bond purchase agreement relating to the Series 2008 A Bond, including all schedules and exhibits attached thereto (the "Bond Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Division of Environmental Protection ("DEP"), all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended, and has authorized the execution and delivery of a loan agreement relating to the Series 2008 B Note, including all schedules and exhibits attached thereto (the "Note Loan Agreement", and, together with the Bond Loan Agreement, the "Loan Agreements"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 16, Article 13A, Chapter 22C, Article 1 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, 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 Bond and the Note should be established by a supplemental resolution, and that other matters relating to the Bond and the Note be therein provided for;

WHEREAS, construction bids for the Project were received by the District on May 15, 2008, and exceeded the budget and funding sources by $1,930,794, which deficiency shall be funded by increasing the Series 2008 A Bond by an equal amount to $18,061,117;

WHEREAS, DEP has agreed to the increase in the amount of the Series 2008 A Bond;

WHEREAS, the Loan Agreements have been presented to the Issuer at this meeting;

WHEREAS, the Series 2008 A Bond and the Series 2008 B Note are proposed to be purchased by the Authority pursuant to the Loan Agreements; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreements be approved and ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Series 2008 A Bond and the Series 2008 B Note be fixed hereby in the manner stated herein, and that other matters relating to the Series 2008 A and the Series 2008 B Note Bond be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF ELK VALLEY 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 following bonds of the Issuer:

A. Sewer Revenue Bond, Series 2008A (West Virginia SRF Program), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $18,061,117. The Series 2008 A Bond shall be dated the date of delivery, shall finally mature August 1, 2038, and shall bear interest at the rate of 0% per annum, plus an administrative fee of ½% per annum. The principal of and administrative fee on the Series 2008 A Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, in the amounts set forth in the Schedule Y attached to the Bond Loan Agreement and incorporated in and made a part of the Series 2008 A Bond. The Series 2008 A Bond shall be subject to redemption upon the written consent of the Authority and DEP, and upon payment of the redemption premium, if any, and otherwise in compliance with the Bond Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2008 A Bond.

B. Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), of the Issuer, originally represented by a single note, numbered BR-1, in the original principal amount of $1,183,677. The Series 2008 B Note shall be dated the date of delivery, shall finally mature August 12, 2010, and shall bear interest at the rate of 3% per annum. The principal of and interest on the Series 2008 B Note shall be payable on August 12, 2010, in the amounts set forth in the Schedule Y attached to the Note Loan Agreement and incorporated in and made a part of the Series 2008 B Note. The Series 2008 B Note shall be subject to redemption upon the written consent of the Authority, and upon payment of the redemption premium, if any, and otherwise in compliance with the Note Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2008 B Note.

Section 2. All other provisions relating to the Series 2008 A Bond and the Series 2008 B Note and the text of the Series 2008 A Bond and the Series 2008 B Note shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreements, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreements by the Chairman and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all covenants and representations made in the Loan Agreements and in the applications to DEP and the Authority. The price of the Series 2008 A Bond and the Series 2008 B Note shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2008 A Bond and the Series 2008 B Note shall be advanced from time to time as requisitioned by the Issuer.

Section 4. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Series 2008 A Bond and the Series 2008 B Note under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Series 2008 A Bond and the Series 2008 B Note, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairman, 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 the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Series 2008 A Bond and the Series 2008 B Note under the Resolution.

Section 6. The Issuer hereby appoints and designates United Bank, Inc., Big Chimney Branch, to serve as Depository Bank for the Revenue Fund, the Renewal and Replacement Fund and the Series 2008 Construction Trust Fund.

Section 7. The proceeds of the Series 2008 A Bond and the Series 2008 B Note, as advanced from time to time, shall be deposited in or credited to the Series 2008 Construction Trust Fund, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Series 2008 A Bond and the Series 2008 B Note.

Section 8. The Chairman, Vice Chairman, Secretary, Treasurer and Assistant Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Series 2008 A Bond and the Series 2008 B Note hereby and by the Resolution approved and provided for, to the end that the Series 2008 A Bond and the Series 2008 B Note may be delivered to the Authority pursuant to the Loan Agreement on August 12, 2008.

Section 9. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Series 2008 A Bond and the Series 2008 B Note 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 10. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money

market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Sinking Funds and the Reserve Accounts for the Series 2008 A Bond and the Series 2008 B Note shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 11. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairman is hereby authorized and directed to execute and deliver all such contracts.

Section 19. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 20. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 29th day of July, 2008.

Chairman

Member

Member

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Elk Valley Public Service District on the 29th day of July, 2008.

Dated this 29th day of July, 2008.

[SEAL]

ELK VALLEY PUBLIC SERVICE DISTRICT CORPORATE SEAL WEST VIRGINIA

Secretary

SRF-BPA-1
(11/01/04)

BOND PURCHASE AGREEMENT

THIS WATER POLLUTION CONTROL REVOLVING FUND BOND PURCHASE AGREEMENT (the "Bond Purchase Agreement"), made and entered into in several counterparts, by and among the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), the WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (the "DEP"), and the local government designated below (the "Local Government").

ELK VALLEY PUBLIC SERVICE DISTRICT
(Local Government)

W I T N E S S E T H:

WHEREAS, the United States Congress under Title VI of the federal Clean Water Act, as amended (the "Clean Water Act"), has provided for capitalization grants to be awarded to states for the express purpose of establishing and maintaining state water pollution control revolving funds for the planning, design, construction, acquisition and/or improvement of wastewater treatment facilities;

WHEREAS, pursuant to the provisions of Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (the "Act"), the State of West Virginia (the "State") has established a state water pollution control revolving fund program (the "Program") to acquire bonds of particular local governments pursuant to the Clean Water Act;

WHEREAS, under the Act the DEP is designated the instrumentality to enter into capitalization agreements with the United States Environmental Protection Agency ("EPA") to accept capitalization grant awards (U.S. General Services Administration; Catalog of Federal Domestic Assistance, 32nd Edition § 66.458 (1998)) and DEP has been awarded capitalization grants to partially fund the Program;

WHEREAS, under the Act and under the direction of DEP, the Authority has established a permanent perpetual fund known as the "West Virginia Water Pollution Control Revolving Fund" (hereinafter the "Fund");

WHEREAS, pursuant to the Act, the Authority and DEP are empowered to utilize moneys from the Fund to purchase the bonds of local governments to provide the financing for the acquisition or construction of wastewater treatment projects by such local governments, all subject to such provisions and limitations as are contained in the Clean Water Act and the Act;

WHEREAS, the Local Government constitutes a local government as defined by the Act;

WHEREAS, the Local Government is included on the DEP State Project Priority List and the Intended Use Plan and has met DEP's pre-application requirements for the Program;

WHEREAS, the Local Government is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a wastewater treatment project and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Local Government;

WHEREAS, the Local Government intends to construct, is constructing or has constructed such a wastewater treatment project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Local Government has completed and filed with the Authority and DEP an Application for Purchase of Bonds with attachments and exhibits and an Amended Application for Purchase of Bonds also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference;

WHEREAS, having reviewed the Application and the Fund having available sufficient funds therefor, the Authority and DEP are willing to lend the Local Government the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Local Government with moneys held in the Fund, subject to the Local Government's satisfaction of certain legal and other requirements of the Program; and

WHEREAS, the Local Government meets the "disadvantaged community" provisions of the SRF Regulations.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Local Government, DEP and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," "fund," "local government," and "project" have the definitions and meanings ascribed to them in the Act or in the SRF Regulations.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any successor thereto.

1.3 "Local Act" means the official action of the Local Government required by Section 4.1 hereof, authorizing the Local Bonds.

1.4 "Local Bonds" means the revenue bonds to be issued by the Local Government pursuant to the provisions of the Local Statute, as hereinafter defined, and to be purchased by the Authority with money held in the Fund, all in accordance with the provisions of this Bond Purchase Agreement.

1.5 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.6 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.7 "Program" means the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by DEP.

1.8 "Project" means the wastewater treatment facility project hereinabove referred to, to be constructed or being constructed by the Local Government in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Local Government in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.9 "SRF Regulations" means the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations, as amended.

1.10 "System" means the wastewater treatment facility owned by the Local Government, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.11 Additional terms and phrases are defined in this Bond Purchase Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Local Government by the Consulting Engineers, the DEP and Authority having found, to the extent applicable, that the Project is consistent with the applicable provisions of the Program.

2.2 Subject to the terms, conditions and provisions of this Bond Purchase Agreement and the Local Act, the Local Government has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Local Government by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Local Government, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by DEP and the Authority.

2.4 The Local Government agrees that the Authority and DEP and their respective duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Local Government further agrees that the Authority and DEP and their respective duly authorized agents shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority and DEP with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Local Government shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Local Government shall permit the Authority and DEP, acting by and through their Directors or duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Local Government shall submit to the Authority and DEP such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Local Bonds proceeds or of any State and federal grants or other sources of financing for the Project.

2.6 The Local Government agrees that it will permit the Authority and DEP and their respective agents to have access to the records of the Local Government pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or if the Project is an improvement to an existing system at any reasonable time following commencement of construction.

2.7 The Local Government shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract and shall verify or have verified such bonds prior to commencement of construction.

2.8 The Local Government shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and DEP and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Local Government, the Local Government or (at the option of the Local Government) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (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 Local Government, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Local Government on or before the Date of Closing, as hereinafter defined, and maintained so long as any of the Local Bonds are outstanding. Prior to commencing operation of the Project, the Local Government must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Local Government shall provide and maintain competent and adequate engineering services satisfactory to the Authority and DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority, DEP and the Local Government at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Local Government shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Local Government shall notify DEP in writing of such receipt. The Local Government shall submit a Performance Certificate, the form of which is attached hereto as Exhibit A, and being incorporated herein by reference, to DEP within 60 days of the end of the first year after the Project is completed.

2.10 The Local Government shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to DEP when the Project is 90% completed. The Local Government shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Local Government shall employ qualified operating personnel properly certified by the State before the Project is 50% complete and shall retain such a certified operator(s) to operate the System during the entire term of this Bond Purchase Agreement. The Local Government shall notify DEP in writing of the certified operator employed at the 50% completion stage.

2.11 The Local Government hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority, DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Local Government, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit B and incorporated herein by reference, and forward a copy by the 10th of each month to the DEP and the Authority.

2.13 The Local Government, during construction of the Project, shall complete Payment Requisition Forms, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward such forms to DEP in compliance with the Local Government's construction schedule.

ARTICLE III

Conditions to Purchase of Local Bonds; Issuance of Local Bonds

3.1 The agreement of the Authority and DEP to purchase the Local Bonds is subject to the Local Government's fulfillment, to the satisfaction of the Authority and DEP, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Local Government shall have delivered to the Authority and DEP a report listing the specific purposes for which the proceeds of the Local Bonds will be expended and the procedures as to the disbursement of bond proceeds, including an estimated monthly draw schedule;

(b) The Local Government shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Bond Purchase Agreement;

(c) The Local Government shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(d) The Local Government shall either have received bids or entered into contracts for the construction of the Project, which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the proceeds of the Local Bonds will refund an interim construction financing, the Local Government must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit D;

(e) The Local Government shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority and DEP shall have received a certificate of the Consulting Engineers to such effect;

(f) The Local Government shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without

successful appeal and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(g) The Local Government shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(h) The Local Government shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority and DEP shall have received an opinion of counsel to the Local Government, which may be local counsel to the Local Government, bond counsel or special PSC counsel but must be satisfactory to the Authority and DEP, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountant for the Local Government, or such other person or firm experienced in the finances of local governments and satisfactory to the Authority and DEP, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority and DEP shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of wastewater treatment projects and satisfactory to the Authority and DEP, to such effect, such certificate to be in form and substance satisfactory to the Authority and DEP, and evidence satisfactory to the Authority and DEP of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Bond Purchase Agreement, the rules and regulations promulgated by the Authority and DEP, including the SRF Regulations, or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that

the Authority shall purchase the Local Bonds of the Local Government and the Local Government shall issue and sell the Local Bonds to the Authority, and in furtherance thereof it is agreed that the Local Government shall sell to the Authority and the Authority shall purchase the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Local Bonds shall be secured and shall be repaid in the manner hereinafter provided in this Bond Purchase Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Local Government by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, DEP and the Local Government. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Closing." Notwithstanding the foregoing, the Date of Closing shall in no event occur more than ninety (90) days after the date of execution of this Bond Purchase Agreement by the Authority or such later date as is agreed to in writing by DEP.

3.5 The Local Government understands and acknowledges that it is one of several local governments which have applied to the Authority and DEP for financing of wastewater treatment projects and that the obligation of the Authority to purchase the Local Bonds is subject to the Local Government's fulfilling all of the terms and conditions of this Bond Purchase Agreement on or prior to the Date of Closing and to the requirements of the Program. The Local Government specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Fund to purchase all the Local Bonds and that, prior to such purchase, the Authority may purchase the bonds of other local governments set out in the State Project Priority List, as defined in the SRF Regulations. The Local Government further specifically recognizes that all bonds will be purchased in conjunction with the SRF Regulations and with the prior approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions regarding the public release and audit requirements, established by federal and State regulations as set forth in Exhibit E attached hereto at such times as are set forth therein.

ARTICLE IV

Local Bonds; Security for Local Bonds;
Repayment of Local Bonds; Interest on Local Bonds;
Fees and Charges

4.1 The Local Government shall, as one of the conditions of the Authority and DEP to purchase the Local Bonds, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Local Government in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the principal payment next coming due on the Local Bonds and, beginning three (3) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

(iv) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

Provided, that if the Local Government has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the net or gross revenues of the System as provided in the Local Act;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the Reserve Account is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Local Government shall complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the SRF Regulations, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole or substantially as a whole, provided that the net proceeds to be realized from such sale, mortgage, lease or other disposition shall be sufficient to fully pay all of the Local Bonds outstanding and further provided that portions of the System when no longer required for the ongoing operation of such System as evidenced by certificates from the Consulting Engineer, may be disposed of with such restrictions as are normally contained in such covenants;

(v) That the Local Government shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any

succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority and DEP; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Local Government will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Local Government will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Local Government under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law and all rights as set forth in Section 5 of the Act;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Local Government will not grant any franchise to provide any services which would compete with the System;

(xi) That the Local Government shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and DEP, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Local Government's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Local Government shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and DEP within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, advanced from time to time, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Local Government and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Local Government, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and DEP, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Local Government may authorize redemption of the Local Bonds with 30 days written notice to the Authority;

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for all Local Bonds;

(xvii) That the Local Government shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Local Government shall complete the Monthly Payment Form, attached hereto as Exhibit F and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Local Government will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xix) That the Local Government shall have obtained the certificate of the Consulting Engineers to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and DEP, the Project is adequate for the purposes for which it was designed, the

funding plan as submitted to the Authority and DEP is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the PSC, terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Local Government, then the Local Government shall enter into a termination agreement with the water provider; and

(xxi) That the Local Government shall submit all proposed change orders to the DEP for written approval. The Local Government shall obtain the written approval of the DEP before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineer. The Local Government shall obtain the written approval of the DEP before expending any proceeds of the Local Bonds available due to bid/construction/project underruns.

The Local Government hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be approved without qualification by nationally recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit G.

4.2 The Local Bonds shall be secured by the pledge and assignment by the Local Government, as effected by the Local Act, of the fees, charges and other revenues of the Local Government from the System.

4.3 At least five percent (5%) of the proceeds of the Local Bonds will be advanced on the Date of Closing. The remaining proceeds of the Local Bonds shall be advanced by the DEP monthly as required by the Local Government to pay Costs of the Project, provided, however, if the proceeds of the Local Bonds will be used to repay an interim financing, the proceeds will be advanced on a schedule mutually agreeable to the Local Government, the DEP and the Authority. The Local Bonds shall not bear interest during the construction period but interest shall commence accruing on the completion date as defined in the SRF Regulations, provided that the annual repayment of principal and payment of interest shall begin not later than one (1) year after the completion date. The repayment of principal and interest on the Local Bonds shall be as set forth on Schedule Y hereto. In no event shall

the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.4 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Local Government. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series.

4.5 As provided by the SRF Regulations, the Local Government agrees to pay from time to time, if required by the Authority and DEP, the Local Government's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be determined by the Authority and shall include, without limitation, Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for any bonds or notes to be issued by the Authority for contribution to the Fund and the fees and expenses of any corporate trustee for the Fund.

4.6 The obligation of the Authority to purchase the Local Bonds shall be conditioned upon the availability of moneys in the Fund in such amount and on such terms and conditions as, in the sole judgment of the Authority, will enable it to purchase the Local Bonds.

ARTICLE V

Certain Covenants of the Local Government; Imposition and Collection of User Charges; Payments To Be Made by Local Government to the Authority

5.1 The Local Government hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Bond Purchase Agreement and the Local Act. The Local Government hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to purchase the Local Bonds, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Bond Purchase Agreement, the Local Government hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all

such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Bond Purchase Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to this Bond Purchase Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Local Bonds next due, from the date of the default until the date of the payment thereof.

5.4 The Local Government hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Local Government, the Authority may exercise any or all of the rights and powers granted under Section 5 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

ARTICLE VI

Other Agreements of the Local Government

6.1 The Local Government hereby acknowledges to the Authority and DEP its understanding of the provisions of the Act, vesting in the Authority and DEP certain powers, rights and privileges with respect to wastewater treatment projects in the event of default by the Local Government in the terms and covenants of this Bond Purchase Agreement, and the Local Government hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Local Government shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Bond Purchase Agreement.

6.2 The Local Government hereby warrants and represents that all information provided to the Authority and DEP in this Bond Purchase Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's purchasing and receiving the Local Bonds, the Authority and DEP shall have the right to cancel all or any of their obligations under this Bond Purchase Agreement if (a) any representation made to the Authority and DEP by the Local Government in connection with the issuance of the Local Bonds shall be incorrect or incomplete in any material respect or (b) the Local Government has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act, the SRF Regulations or this Bond Purchase Agreement.

6.3 The Local Government hereby agrees to repay on or prior to the Date of Closing any moneys due and owing by it to the Authority or any other lender for the planning or design of the Project, provided that such repayment shall not be made from the proceeds of the Local Bonds.

6.4 The Local Government hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Local Government fails to make any such rebates as required, then the Local Government shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority and DEP may at any time, in their sole discretion, cause the rebate calculations prepared by or on behalf of the Local Government to be monitored or cause the rebate calculations for the Local Government to be prepared, in either case at the expense of the Local Government.

6.6 The Local Government hereby agrees to give the Authority and DEP prior written notice of the issuance by it of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Local Government hereby agrees to file with the Authority and DEP upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Schedules X and Y shall be attached to this Bond Purchase Agreement by the Authority as soon as practicable after the Date of Closing is established and shall be approved by an official action of the Local Government supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.2 If any provision of this Bond Purchase Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Bond Purchase Agreement, and this Bond

Purchase Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.3 This Bond Purchase Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Bond Purchase Agreement.

7.4 No waiver by any party of any term or condition of this Bond Purchase Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Bond Purchase Agreement.

7.5 This Bond Purchase Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Local Bonds and constitutes the entire agreement between the parties hereto in respect thereof.

7.6 By execution and delivery of this Bond Purchase Agreement, notwithstanding the date hereof, the Local Government specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.7 This Bond Purchase Agreement shall terminate upon the earlier of:

(i) written notice of termination to the Local Government from either the Authority or DEP;

(ii) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by DEP if the Local Government has failed to deliver the Local Bonds to the Authority;

(iii) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

(iv) payment in full of the principal of and interest on the Local Bonds and of any fees and charges owed by the Local Government to the Authority or DEP; provided that the amount of the Local Bonds purchased under this Bond Purchase Agreement in any succeeding fiscal year is contingent upon funds being appropriated by the State legislature or otherwise being available to purchase the Local Bonds. In the event funds are not appropriated or otherwise available to purchase all of the Local Bonds, the responsibility of the Authority

and DEP to purchase the Local Bonds is terminated; provided further that the obligation of the Local Government to repay the outstanding amount of the Local Bonds is not terminated due to such non-funding on any balance of the Local Bonds. The DEP agrees to use its best efforts to have the amount contemplated under this Bond Purchase Agreement included in its budget. Non-appropriation or non-funding of the Loan shall not be considered an event of default under this Bond Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Bond Purchase Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

ELK VALLEY PUBLIC SERVICE DISTRICT

By: James C. Smith
Its: Chairman
Date: August 4, 2008

(SEAL)

Attest:

Timothy C. Clifman
Its: Secretary, ASSISTANT

WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF WATER AND WASTE MANAGEMENT

By: Laura M. McClung
Its: Director
Date: 8/6/08

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By:
Its: Executive Director
Date: July 30, 2008

Barbara B Meadows
Its: Secretary-Treasurer

EXHIBIT A

FORM OF PERFORMANCE CERTIFICATE

[To Be Provided By DEP]

EXHIBIT B

MONTHLY FINANCIAL REPORT

Name of Local Government _____

Name of Bond Issue(s) _____

Type of Project _____ **Water** _____ **Wastewater**

Fiscal Year _____ **Report Month** _____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues				
2. Operating Expenses				
3. Bond Payments:				
Type of Issue				
Clean Water SRF				
Drinking Water TRF				
Infrastructure Fund				
Water Development Authority				
Rural Utilities Service				
Economic Development Administration				
Other (Identify)				
_____				
_____				
4. Renewal and Replacement Fund Deposits				

_____

Name of Person Completing Form

_____

Address

_____

Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 — You will need a copy of the current fiscal year budget adopted by the Local Government to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 — Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 — Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Local Government according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 — Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Local Government.

The Local Government must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT C

PAYMENT REQUISITION FORM

(All Copies to Be Provided by DEP for Each Project)

EXHIBIT D

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No._____, of _____, Consulting Engineers, _____, _____, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meaning set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Bond Purchase Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least _____ years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in Schedule

attached hereto as Exhibit A, and my firm[1] has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof[2], the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Bond Purchase Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this _____ day of _____, _____.

_____

By _____

West Virginia License No. __

[SEAL]

---

[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of_____, Esq.] and delete "my firm has ascertained that".

[2]If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT E

SPECIAL CONDITIONS

A. PUBLIC RELEASE REQUIREMENT - The Local Government agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations, ground breaking or project dedication program documents and other documents describing projects or programs funded in whole or in part with Federal money, (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

B. AUDIT REQUIREMENT (Supplement to Article IV 4.1 (b) (xi)) - Effective October 1, 2003, the Local Government that receives $500,000 or more (in federal funds) in a fiscal year must obtain audits in accordance with the Single Audit Act and the applicable OMB Circular or any successor thereto. Financial statement audits are required once all funds have been received by the Local Government.

EXHIBIT F

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Local Government] on [Date].

Sinking Fund:

Interest	$____
Principal	$____
Total:	$____
Reserve Account:	$____

Witness my signature this ___ day of_____.

[Name of Local Government]

By: _____
Authorized Officer

Enclosure: copy of check(s)

EXHIBIT G

OPINION OF BOND COUNSEL FOR LOCAL GOVERNMENT

[To Be Dated as of Date of Closing]

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

West Virginia Department of Environmental Protection
601 57th Street
Charleston, WV 25304

Ladies and Gentlemen:

We are bond counsel to _____ (the "Local Government"), a _____.

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a bond purchase agreement dated _____, ___, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), among the Local Government, the West Virginia Water Development Authority (the "Authority") and the West Virginia Department of Environmental Protection (the "DEP"), and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, ___ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal only to the Authority, with principal payable quarterly on March 1, June 1, September 1, and December 1 of each year, beginning _____ 1, ____, and ending ___ _ 1, ____, all as set forth in the "Schedule Y" attached to the Bond Purchase Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly adopted or enacted by the Local Government on _____, as supplemented by the supplemental resolution duly adopted by the Local Government on _____ (collectively, the "Local

Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Bond Purchase Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Bond Purchase Agreement.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Bond Purchase Agreement has been duly authorized by and executed on behalf of the Local Government and is a valid and binding special obligation of the Local Government, enforceable in accordance with the terms thereof.

2. The Bond Purchase Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority or the DEP or diminish the obligations of the Local Government without the consent of the Authority and the DEP.

3. The Local Government is a duly organized and validly existing _____ _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Local Government and constitute valid and binding obligations of the Local Government, enforceable against the Local Government in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Bond Purchase Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Local Government to the Authority and are valid, legally enforceable and binding special obligations of the Local Government, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Local Bond numbered R-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	$18,061,117
Purchase Price of Local Bonds	$18,061,117

The Local Bonds shall bear no interest. Commencing September 1, 2011, principal of the Local Bonds is payable quarterly, with an administrative fee of 0.5%. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Local Government shall submit its payments monthly to the Commission with instructions that the Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority. If the Reserve Account is not fully funded at closing, the Local Government shall commence the payment of the 1/120 of the maximum annual debt service on the first day of the month it makes its first monthly payment to the Commission. The Local Government shall instruct the Commission to notify the Authority of any monthly payments which are not received by the 20th day of the month in which the payment was due.

The Local Bonds are fully registered in the name of the Authority as to principal only and the Local Bonds shall grant the Authority a first lien on the net or gross revenues of the Local Government's system as provided in the Local Act.

The Local Government may prepay the Local Bonds in full at any time at the price of par upon 30 days' written notice to the Authority and DEP. The Local Government shall request approval from the Authority and DEP in writing of any proposed debt which will be issued by the Local Government on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Local Government:

See next page.

a. $5,227,400 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987A, issued August 20, 1987 (West Virginia Water Development Authority); and

b. $1,388,390 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990A, issued July 12, 1990 (West Virginia Water Development Authority).

As of the date of the Loan Agreement, the Local Bonds are senior as to liens, pledge and source of and security for payment to the following obligations of the Local Government:

a. $1,282,163 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987B, issued August 20, 1987 (West Virginia Water Development Authority); and

b. $62,701 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990B, issued July 12, 1990 (West Virginia Water Development Authority).

$18,061,117 SCHEDULE Y

Elk Valley PSD

0% Interest Rate; 0.5% Administrative Fee

Closing Date: August 12, 2008

Debt Service Schedule

Date	Principal	Coupon	Total P+I
09/01/2008	-	-	-
12/01/2008	-	-	-
03/01/2009	-	-	-
06/01/2009	-	-	-
09/01/2009	-	-	-
12/01/2009	-	-	-
03/01/2010	-	-	-
06/01/2010	-	-	-
09/01/2010	-	-	-
12/01/2010	-	-	-
03/01/2011	-	-	-
06/01/2011	-	-	-
09/01/2011	150,510.00	-	150,510.00
12/01/2011	150,510.00	-	150,510.00
03/01/2012	150,510.00	-	150,510.00
06/01/2012	150,510.00	-	150,510.00
09/01/2012	150,510.00	-	150,510.00
12/01/2012	150,510.00	-	150,510.00
03/01/2013	150,510.00	-	150,510.00
06/01/2013	150,510.00	-	150,510.00
09/01/2013	150,510.00	-	150,510.00
12/01/2013	150,510.00	-	150,510.00
03/01/2014	150,510.00	-	150,510.00
06/01/2014	150,510.00	-	150,510.00
09/01/2014	150,510.00	-	150,510.00
12/01/2014	150,510.00	-	150,510.00
03/01/2015	150,510.00	-	150,510.00
06/01/2015	150,510.00	-	150,510.00
09/01/2015	150,510.00	-	150,510.00
12/01/2015	150,510.00	-	150,510.00
03/01/2016	150,510.00	-	150,510.00
06/01/2016	150,510.00	-	150,510.00
09/01/2016	150,510.00	-	150,510.00
12/01/2016	150,510.00	-	150,510.00
03/01/2017	150,510.00	-	150,510.00
06/01/2017	150,510.00	-	150,510.00
09/01/2017	150,510.00	-	150,510.00
12/01/2017	150,510.00	-	150,510.00
03/01/2018	150,510.00	-	150,510.00
06/01/2018	150,510.00	-	150,510.00
09/01/2018	150,510.00	-	150,510.00
12/01/2018	150,510.00	-	150,510.00
03/01/2019	150,510.00	-	150,510.00
06/01/2019	150,510.00	-	150,510.00

$18,061,117 SCHEDULE Y

Elk Valley PSD

0% Interest Rate; 0.5% Administrative Fee

Closing Date: August 12, 2008

Debt Service Schedule

Date	Principal	Coupon	Total P+I
09/01/2019	150,510.00	-	150,510.00
12/01/2019	150,510.00	-	150,510.00
03/01/2020	150,510.00	-	150,510.00
06/01/2020	150,510.00	-	150,510.00
09/01/2020	150,510.00	-	150,510.00
12/01/2020	150,509.00	-	150,509.00
03/01/2021	150,509.00	-	150,509.00
06/01/2021	150,509.00	-	150,509.00
09/01/2021	150,509.00	-	150,509.00
12/01/2021	150,509.00	-	150,509.00
03/01/2022	150,509.00	-	150,509.00
06/01/2022	150,509.00	-	150,509.00
09/01/2022	150,509.00	-	150,509.00
12/01/2022	150,509.00	-	150,509.00
03/01/2023	150,509.00	-	150,509.00
06/01/2023	150,509.00	-	150,509.00
09/01/2023	150,509.00	-	150,509.00
12/01/2023	150,509.00	-	150,509.00
03/01/2024	150,509.00	-	150,509.00
06/01/2024	150,509.00	-	150,509.00
09/01/2024	150,509.00	-	150,509.00
12/01/2024	150,509.00	-	150,509.00
03/01/2025	150,509.00	-	150,509.00
06/01/2025	150,509.00	-	150,509.00
09/01/2025	150,509.00	-	150,509.00
12/01/2025	150,509.00	-	150,509.00
03/01/2026	150,509.00	-	150,509.00
06/01/2026	150,509.00	-	150,509.00
09/01/2026	150,509.00	-	150,509.00
12/01/2026	150,509.00	-	150,509.00
03/01/2027	150,509.00	-	150,509.00
06/01/2027	150,509.00	-	150,509.00
09/01/2027	150,509.00	-	150,509.00
12/01/2027	150,509.00	-	150,509.00
03/01/2028	150,509.00	-	150,509.00
06/01/2028	150,509.00	-	150,509.00
09/01/2028	150,509.00	-	150,509.00
12/01/2028	150,509.00	-	150,509.00
03/01/2029	150,509.00	-	150,509.00
06/01/2029	150,509.00	-	150,509.00
09/01/2029	150,509.00	-	150,509.00
12/01/2029	150,509.00	-	150,509.00
03/01/2030	150,509.00	-	150,509.00
06/01/2030	150,509.00	-	150,509.00

$18,061,117 SCHEDULE Y

Elk Valley PSD

0% Interest Rate; 0.5% Administrative Fee

Closing Date: August 12, 2008

Debt Service Schedule

Date	Principal	Coupon	Total P+I
09/01/2030	150,509.00	-	150,509.00
12/01/2030	150,509.00	-	150,509.00
03/01/2031	150,509.00	-	150,509.00
06/01/2031	150,509.00	-	150,509.00
09/01/2031	150,509.00	-	150,509.00
12/01/2031	150,509.00	-	150,509.00
03/01/2032	150,509.00	-	150,509.00
06/01/2032	150,509.00	-	150,509.00
09/01/2032	150,509.00	-	150,509.00
12/01/2032	150,509.00	-	150,509.00
03/01/2033	150,509.00	-	150,509.00
06/01/2033	150,509.00	-	150,509.00
09/01/2033	150,509.00	-	150,509.00
12/01/2033	150,509.00	-	150,509.00
03/01/2034	150,509.00	-	150,509.00
06/01/2034	150,509.00	-	150,509.00
09/01/2034	150,509.00	-	150,509.00
12/01/2034	150,509.00	-	150,509.00
03/01/2035	150,509.00	-	150,509.00
06/01/2035	150,509.00	-	150,509.00
09/01/2035	150,509.00	-	150,509.00
12/01/2035	150,509.00	-	150,509.00
03/01/2036	150,509.00	-	150,509.00
06/01/2036	150,509.00	-	150,509.00
09/01/2036	150,509.00	-	150,509.00
12/01/2036	150,509.00	-	150,509.00
03/01/2037	150,509.00	-	150,509.00
06/01/2037	150,509.00	-	150,509.00
09/01/2037	150,509.00	-	150,509.00
12/01/2037	150,509.00	-	150,509.00
03/01/2038	150,509.00	-	150,509.00
06/01/2038	150,509.00	-	150,509.00
09/01/2038	150,509.00	-	150,509.00
12/01/2038	150,509.00	-	150,509.00
03/01/2039	150,509.00	-	150,509.00
06/01/2039	150,509.00	-	150,509.00
09/01/2039	150,509.00	-	150,509.00
12/01/2039	150,509.00	-	150,509.00
03/01/2040	150,509.00	-	150,509.00
06/01/2040	150,509.00	-	150,509.00
09/01/2040	150,509.00	-	150,509.00
12/01/2040	150,509.00	-	150,509.00
03/01/2041	150,509.00	-	150,509.00
06/01/2041	150,509.00	-	150,509.00
Total	**$18,061,117.00**	-	**$18,061,117.00** *

***Plus $11,382.26 one-half percent Administrative Fee paid quarterly. Total fee over life of loan is $1,365,871.20.**

WDA-SF-GAN
(7/30/08)

LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into in several counterparts, by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), and the governmental agency designated below (the "Governmental Agency").

ELK VALLEY PUBLIC SERVICE DISTRICT
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 22C, Article 1 of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

WHEREAS, the Governmental Agency constitutes a governmental agency as defined by the Act;

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State of West Virginia (the "State") to acquire, construct, improve, operate and maintain a water development project, as defined by the Act, and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by revenue bonds issued by the Governmental Agency;

WHEREAS, the Governmental Agency intends to construct, is constructing or has constructed such a water development project at the location and as more particularly described and set forth in the Application, as hereinafter defined (the "Project");

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an

Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act and having available sufficient funds therefor, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with money in the Supplemental Fund of the Authority, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's water development loan program (the "Program") as hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual agreements hereinafter contained, the Governmental Agency and the Authority hereby agree as follows:

ARTICLE I

Definitions

1.1 Except where the context clearly indicates otherwise, the terms "Authority," "cost," governmental agency," "water development project," "wastewater facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

1.2 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto.

1.3 "Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Local Bonds, as hereinafter defined, pursuant to this Loan Agreement.

1.4 "Local Act" means the official action of the Governmental Agency required by Section 4.1 hereof, authorizing the Local Bonds.

1.5 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined, to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

1.6 "Local Statute" means the specific provisions of the Code of West Virginia, 1931, as amended, pursuant to which the Local Bonds are issued.

1.7 "Operating Expenses" means the reasonable, proper and necessary costs of operation and maintenance of the System, as hereinafter defined, as should normally and regularly be included as such under generally accepted accounting principles.

1.8 "Project" means the water development project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Governmental Agency in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

1.9 "System" means the water development project owned by the Governmental Agency, of which the Project constitutes all or to which the Project constitutes an improvement, and any improvements thereto hereafter constructed or acquired from any sources whatsoever.

1.10 Additional terms and phrases are defined in this Loan Agreement as they are used.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the Act.

2.2 Subject to the terms, conditions and provisions of this Loan Agreement and the Local Act, the Governmental Agency has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers.

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property is approved by the Authority.

2.4 The Governmental Agency agrees that the Authority and its duly authorized agents shall have the right at all reasonable times to enter upon the Project site and Project facilities and to examine and inspect the same. The Governmental Agency further agrees that the Authority and its duly authorized agents and representatives shall, prior to, during and after completion of construction and commencement of operation of the Project, have such rights of access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Authority with respect to the System pursuant to the pertinent provisions of the Act.

2.5 The Governmental Agency shall keep complete and accurate records of the cost of acquiring the Project site and the costs of constructing, acquiring and installing the Project. The Governmental Agency shall permit the Authority, acting by and through its Director or his duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Governmental Agency shall submit to the Authority such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project, the operation and maintenance of the System and the administration of the Loan or of any State and federal grants or other sources of financing for the Project.

2.6 The Governmental Agency agrees that it will permit the Authority and its agents and representatives to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

2.7 The Governmental Agency shall require that each construction contractor furnish a performance bond and a payment bond, each in an amount at least equal to one hundred percent (100%) of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract and shall verify or shall have verified such bonds prior to commencement of construction.

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority and shall verify or shall have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (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 Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

2.9 The Governmental Agency shall provide and maintain competent and adequate engineering services satisfactory to the Authority covering the supervision and inspection of the development and construction of the Project, and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Authority and the Governmental Agency at the completion of construction that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

2.10 The Governmental Agency shall at all times provide operation and maintenance of the System in compliance with any and all State and federal standards. The Governmental Agency shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of this Loan Agreement.

2.11 The Governmental Agency hereby covenants and agrees to comply with all applicable laws, rules and regulations issued by the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

2.12 The Governmental Agency, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 10th of each month to the Authority.

ARTICLE III

Conditions to Loan;
Issuance of Local Bonds

3.1 The agreement of the Authority to make the Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Local Bonds, which shall be the date established pursuant to Section 3.4 hereof. Said conditions precedent are as follows:

(a) The Governmental Agency shall have performed and satisfied all of the terms and conditions to be performed and satisfied by it in this Loan Agreement;

(b) The Governmental Agency shall have authorized the issuance of and delivery to the Authority of the Local Bonds described in this Article III and in Article IV hereof;

(c) The Governmental Agency shall either have received bids or entered into contracts for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the Loan will refund an interim construction financing, the Governmental Agency must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application; and, in either case, the Authority shall have received a certificate of the Consulting Engineers to such effect, the form of which certificate is attached hereto as Exhibit A;

(d) No Loan shall be made for the purpose of refinancing any outstanding long-term indebtedness of a Governmental Agency unless an opinion of counsel is received by the Authority to the effect that such refinancing is permitted by the Act;

(e) The Governmental Agency shall have obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, and the Authority shall have received a certificate of the Consulting Engineers to such effect;

(f) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the West Virginia Infrastructure and Jobs Development Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the

Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(g) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(h) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), with all requisite appeal periods having expired without successful appeal, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(i) Such rates and charges for the System shall be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof, and the Authority shall have received a certificate of the accountant for the Governmental Agency, or such other person or firm experienced in the finances of governmental agencies and satisfactory to the Authority, to such effect; and

(j) The net proceeds of the Local Bonds, together with all moneys on deposit or to be simultaneously deposited (or, with respect to proceeds of grant anticipation notes or other indebtedness for which a binding purchase contract has been entered, to be deposited on a date certain) and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, shall be sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and the Authority shall have received a certificate of the Consulting Engineers, or such other person or firm experienced in the financing of water development projects and satisfactory to the Authority, to such effect, such certificate to be in form and substance satisfactory to the Authority, and evidence satisfactory to the Authority of such irrevocably committed grants.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and

at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

3.3 The Loan shall be secured and shall be repaid in the manner hereinafter provided in this Loan Agreement.

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the Authority, which written notice shall be given not less than ten (10) business days prior to the date designated; provided, however, that if the Authority is unable to accept delivery on the date designated, the Local Bonds shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority or such later date as is agreed to in writing by the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans from the Program to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until it has available funds sufficient to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available. Additionally, the Governmental Agency recognizes that the Authority will purchase the Local Bonds only with funds from the Program and not with funds from any other loan programs of the Authority.

ARTICLE IV

Local Bonds; Security for Loan;
Repayment of Loan; Interest on Loan;
Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as adopted or enacted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Authority:

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues will be used monthly, in the order of priority listed below:

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document, as reflected on the Schedule X attached hereto, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, beginning thirteen (13) months prior to the first date of payment of principal of the Local Bonds, if the reserve account for the Local Bonds (the "Reserve Account") was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety or other security instrument) in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than ten (10) years) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

(iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making

emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account; and

(iv) for other legal purposes of the System, including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

Provided, that if the Governmental Agency has existing outstanding indebtedness which has greater coverage or renewal and replacement fund requirements, then the greater requirements will prevail until said existing indebtedness is paid in full.

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues of the System, as more fully set forth in the Local Act;

(ii) That the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any year for debt service on the Local Bonds and all other obligations secured by a lien on or payable from the revenues of the System prior to or on a parity with the Local Bonds or, if the Reserve Account is funded (whether by Local Bond proceeds, monthly deposits or otherwise) at an amount equal to the Reserve Requirement and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Governmental Agency shall complete the Project, shall operate and maintain the System in good condition and, to the extent applicable, in compliance with, among other state and federal standards, the water quality standards established by the West Virginia Bureau for Public Health (the "BPH"), the West Virginia Department of Environmental Protection (the "DEP") and the United States Environmental Protection Agency (the "EPA"), shall permit the BPH, the DEP and EPA to have access to the records of the Governmental Agency pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof, and shall, as a condition precedent to the Authority's making the Loan, have obtained, among other permits required, permits from the BPH, the DEP and the EPA, if required;

(iv) That, except as otherwise required by State law or with the written consent of the Authority, 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 Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds and with the prior written consent of the Authority; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

(vi) That the Governmental Agency will carry such insurance as is customarily carried with respect to works and properties similar to the System, including those specified by Section 2.8 hereof;

(vii) That the Governmental Agency will not render any free services of the System;

(viii) That the Authority may, by proper legal action, compel the performance of the duties of the Governmental Agency under the Local Act, including the making and collection of sufficient rates or charges for services rendered by the System, and shall also have, in the event of a default in payment of principal of or interest on the Local Bonds, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

(ix) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, all delinquent rates and charges, if not paid when due, shall become a lien on the premises served by the System;

(x) That, to the extent legally allowable, the Governmental Agency will not grant any franchise to provide any services which would compete with the System;

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority, which

report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Governmental Agency's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

(xii) That the Governmental Agency shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority within 30 days of adoption thereof;

(xiii) That, to the extent authorized by the laws of the State and the rules and regulations of the PSC, prospective users of the System shall be required to connect thereto;

(xiv) That the proceeds of the Local Bonds, except for accrued interest and capitalized interest, if any, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Governmental Agency and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Governmental Agency, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency shall not authorize redemption of any Local Bonds by it without the written consent of the Authority and except in compliance with the restrictions contained in this Loan Agreement;

(xvi) That, to the full extent permitted by applicable law and the rules and regulations of the PSC, the Governmental Agency shall terminate the services of any water facility owned by it to any customer of the System who is delinquent in payment of charges for services provided by the System and will not restore the services of the water facility until all delinquent charges for the services of the System have been fully paid or, if the water facility is not owned by the Governmental Agency, then the Governmental Agency shall enter into a termination agreement with the water provider;

(xvii) That, if required by the Authority, the Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Local Bonds, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for federal income tax purposes of interest on the Authority's bonds;

(xviii) That the Governmental Agency shall provide the Authority with annual financial information and such other information as is necessary for the Authority to meet its ongoing disclosure requirements;

(xix) That the Governmental Agency shall have obtained the certificate of the Consulting Engineers in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

(xx) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for the Local Bonds;

(xxi) That the Governmental Agency shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Governmental Agency shall complete the Monthly Payment Form, attached hereto as Exhibit D and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month;

(xxii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

(xxiii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request, or, if applicable, the Governmental Agency shall annually furnish to the Authority such information with respect to the Governmental

Agency's use of the proceeds of the Local Bonds and any additional information requested by the Authority;

(xxiv) That the Governmental Agency shall obtain the written approval of the Authority before expending any proceeds of the Local Bonds available due to bid/construction/project underruns, including the "contingency" as set forth in the final Schedule A attached to the certificate of the Consulting Engineers;

(xxv) That the Governmental Agency shall list the funding provided by the Authority in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project;

(xxvi) That, to the extent required by law, the Governmental Agency shall secure the approval of the Authority and all other state agencies having jurisdiction before applying for federal assistance for pollution abatement in order to maximize the amounts of such federal financial assistance received or to be received for all water development projects in the State of West Virginia;

(xxvii) That, as a condition precedent to the Authority's making the Loan, the Governmental Agency shall deliver to the Authority a tax and non-arbitrage certificate or a certificate with respect to the used of proceeds of the Local Bonds satisfactory to the Authority; and

(xxviii) That, unless it qualifies for an exception, the Governmental Agency shall comply with all the requirements of Chapter 21, Article 1C of the Code of West Virginia, 1931, as amended (the "West Virginia Jobs Act") and shall require its contractors and subcontractors to comply with the West Virginia Jobs Act. The Governmental Agency shall provide the Authority with a certificate stating that (I) the Governmental Agency will comply with all the requirements of the West Virginia Jobs Act; (II) the Governmental Agency has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (III) the Governmental Agency has received or will receive, prior to entering into contracts or subcontracts, from each contractor or subcontractor a certificate demonstrating compliance with Section 4 of the West Virginia Jobs Act or waiver certificates from the West Virginia Division of Labor ("DOL"); and (IV) the Governmental Agency will file with the DOL and the Authority copies of the waiver certificates and certified payrolls or comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation, following the procedures established by the DOL.

The Governmental Agency hereby represents and warrants that the Local Act has been or shall be duly adopted or enacted in compliance with all necessary corporate and other action and in accordance with applicable provisions of law. All legal matters incident to the authorization, issuance, validity, sale and delivery of the Local Bonds shall be approved without

qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit B.

4.2 The Loan shall be secured by the pledge and assignment by the Governmental Agency, as effected by the Local Act, of the fees, charges and other revenues of the Governmental Agency from the System as further set forth by and subject only to such reservations and exceptions as are described in Schedules X and Y hereto or are otherwise expressly permitted in writing by the Authority.

4.3 The principal payments of the Loan shall be made by the Commission annually on the days and in the years provided in Schedule X hereto. The interest payments on the Loan shall be made by the Commission semiannually as provided in said Schedule X.

4.4 The Loan shall bear interest from the date of the delivery to the Authority of the Local Bonds until the date of payment thereof, at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Local Bonds exceed any statutory limitation with regard thereto.

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 As long as the Authority is the owner of any of the Local Bonds outstanding, the Governmental Agency shall not redeem any of such Local Bonds outstanding without the written consent of the Authority.

ARTICLE V

Certain Covenants of the Governmental Agency; Imposition and Collection of User Charges; Payments To Be Made by Governmental Agency to the Authority

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that, as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

5.3 In the event the Governmental Agency defaults in any payment to the Authority pursuant to this Loan Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, plus 2%, from the date of the default until the date of the payment thereof. The defaulted interest shall be paid from the first deposits made by the Governmental Agency to the Commission.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under Section 7 of the Act, including, without limitation, the right to impose, enforce and collect charges of the System.

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by the Governmental Agency in the terms and covenants of this Loan Agreement, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 The Governmental Agency hereby warrants and represents that all information provided to the Authority in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the Project was at the time, and now is, true, correct and complete, and such information does not omit any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Prior to the Authority's making the Loan and receiving the Local Bonds, the Authority shall have the right to cancel all or any of its obligations under this Loan Agreement if (a) any representation made to the Authority by the Governmental Agency in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Act or this Loan Agreement.

6.3 The Governmental Agency hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority for the planning or design of the Project, and such repayment shall be a condition precedent to the Authority's making the Loan.

6.4 The Governmental Agency hereby covenants that it will rebate any amounts required by Section 148 of the Internal Revenue Code of 1986, as amended, and will take all steps necessary to make any such rebates. In the event the Governmental Agency fails to make any such rebates as required, then the Governmental Agency shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for federal income tax purposes of interest on the Local Bonds.

6.5 Notwithstanding Section 6.4, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

6.6 The Governmental Agency hereby agrees to give the Authority prior written notice of the issuance by it of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project or otherwise related to the Project or the System.

6.7 The Governmental Agency hereby agrees to file with the Authority upon completion of acquisition and construction of the Project a schedule in substantially the form of Amended Schedule A to the Application, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE VII

Miscellaneous

7.1 Additional definitions, additional terms and provisions of the Loan and additional covenants and agreements of the Governmental Agency, if any, may be set forth in Schedule Z attached hereto and incorporated herein by reference, with the same effect as if contained in the text of this Loan Agreement.

7.2 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.3 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

7.4 This Loan Agreement may be executed in one or more counterparts, any of which shall be regarded for all purposes as an original and all of which constitute but one and the same instrument. Each party agrees that it will execute any and all documents or other instruments and take such other actions as may be necessary to give effect to the terms of this Loan Agreement.

7.5 No waiver by either party of any term or condition of this Loan Agreement shall be deemed or construed as a waiver of any other terms or conditions, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different section, subsection, paragraph, clause, phrase or other provision of this Loan Agreement.

7.6 This Loan Agreement supersedes all prior negotiations, representations and agreements between the parties hereto relating to the Loan and constitutes the entire agreement between the parties hereto in respect thereof.

7.7 By execution and delivery of this Loan Agreement, notwithstanding the date hereof, the Governmental Agency specifically recognizes that it is hereby agreeing to sell its Local Bonds to the Authority and that such obligation may be specifically enforced or subject to a similar equitable remedy by the Authority.

7.8 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the Authority if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority pursuant to Section 6.3 hereof; or

(iii) payment in full of the principal of and interest on the Loan and of any fees and charges owed by the Governmental Agency to the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly authorized officers as of the date executed below by the Authority.

ELK VALLEY PUBLIC SERVICE DISTRICT

By: James C. Smith
Its: Chairman
Date: August 12, 2008

ELK VALLEY PUBLIC SERVICE DISTRICT CORPORATE SEAL WEST VIRGINIA (SEAL)

Attest:
Timothy C. Chapman
Its: Secretary/ASSISTANT

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

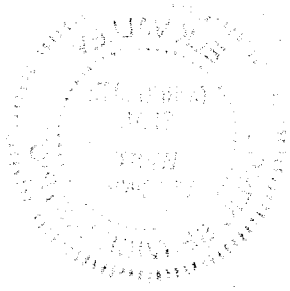
By:
Its: Executive Director
Date: August 12, 2008

Attest:
Barbara B Meadows
Its: Secretary-Treasurer

0832/00302
04/28/05

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEERS



_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers, _____, _____, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meanings set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least _____ years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the

Schedule A attached hereto as Exhibit A and my firm[1] has ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof,[2] the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule A attached hereto; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____, ___.

[SEAL]

_____

By: _____
West Virginia License No. _____

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[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____, Esq.] and delete "my firm has ascertained that."

[2]If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Ladies and Gentlemen:

We are bond counsel to _____ (the "Governmental Agency"), a _____.

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a loan agreement dated _____, ____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, ____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of $_____, in the form of one bond, registered as to principal and interest to the Authority, with interest payable semiannually on April 1 and October 1 of each year, commencing _____ 1, _____, at the rate of __% per annum, and with principal payable annually on October 1 of each year, commencing _____ 1, ____, all as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly adopted or enacted by the Governmental Agency on _____, as supplemented by the supplemental resolution duly adopted by the Governmental Agency on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion as follows:

1. The Loan Agreement has been duly authorized by and executed on behalf of the Governmental Agency and is a valid and binding special obligation of the Governmental Agency, enforceable in accordance with the terms thereof.

2. The Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Governmental Agency without the consent of the Authority.

3. The Governmental Agency is a duly organized and validly existing _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid, legally enforceable and binding special obligations of the Governmental Agency, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

6. The Local Bonds are, by statute, exempt _____, and under existing statutes and court decisions of the United States of America, as presently written and applied, the interest on the Local Bonds is excludable from the gross income of the recipients thereof for federal income tax purposes.

No opinion is given herein as to the effect upon enforceability of the Local Bonds of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

We have examined the executed and authenticated Local Bond numbered R-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency _____

Name of Bond Issue(s) _____

Type of Project _____ **Water** _____ **Wastewater**

Fiscal Year _____ **Report Month** _____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues				
2. Operating Expenses				
3. Bond Payments:				
Type of Issue				
Clean Water SRF				
Drinking Water TRF				
Infrastructure Fund				
Water Development Authority				
Rural Utilities Service				
Economic Development Administration				
Other (Identify)				
_____				
_____				
4. Renewal and Replacement Fund Deposits				

_____

Name of Person Completing Form

_____

Address

_____

Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 — You will need a copy of the current fiscal year budget adopted by the Governmental Agency to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 — Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 — Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Governmental Agency according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 — Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Governmental Agency.

The Governmental Agency must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT D

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Governmental Agency] on [Date].

Sinking Fund:

Interest	$____
Principal	$____
Total:	$____
Reserve Account:	$____

Witness my signature this ___ day of_____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE X

DESCRIPTION OF LOCAL NOTE

Principal Amount of Local Note	$1,183,677
Purchase Price of Local Note	$1,183,677

The Local Note is fully registered in the name of the Authority as to interest and principal and is payable as set forth on the Schedule Y attached hereto and incorporated herein by reference.

SCHEDULE Y

DEBT SERVICE SCHEDULE

Elk Valley Public Service District

$1,183,677

Closed 8/12/08

Due 8/12/10

3% interest on amounts drawn

SCHEDULE Z

SPECIAL CONDITION:

This Grant Anticipation Note shall be repaid upon receipt of grant funds from the West Virginia Infrastructure and Jobs Development Council or other grant source.

MODIFICATIONS TO THE LOAN AGREEMENT:

The Authority hereby waives the debt service reserve account requirement set forth in Section 4.1(a)(ii) of the Loan Agreement. The Authority also waives the requirements of Section 4.1 (b) (i), (ii), (v), (xxi), (xxii), (xxiii) and (xxvii).

The Authority recognizes that the sole source of repayment of the Grant Anticipation Note is future grants received by the Governmental Agency.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
1/22/2008

Entered: January 2, 2008

CASE NO. 07-1024-PSD-CN

ELK VALLEY PUBLIC SERVICE DISTRICT,
Application for a certificate of convenience and necessity to construct improvements to existing sewer treatment plant, lift stations and related appurtenances.

RECOMMENDED DECISION

On June 5, 2007, Elk Valley Public Service District (District or Applicant), Elkview, Kanawha County, West Virginia, filed an application with the Public Service Commission of West Virginia (Commission), for a certificate of convenience and necessity to construct certain additions and improvements to its wastewater system located in Kanawha County, West Virginia. The District provides wastewater treatment service to more than 4,800 customers located along the Elk River in northern and northeastern Kanawha County, West Virginia. The District's wastewater is treated at the District's wastewater treatment plant located along the Elk River. Treated wastewater is then released into the Elk River. The Elk River is the raw water source for more than 50,000 water customers served by West Virginia-American Water Company's water treatment plant located in Charleston, West Virginia, down river from the District's wastewater treatment plant. The District proposed a project to upgrade its existing wastewater treatment plant to treat additional wastewater flow and to meet regulatory discharge permit limitations. The project includes the upgrade of nine (9) existing wastewater lift stations, expansion of the treatment plant and related appurtenances.

The District's application stated that the estimated project cost is $17,829,000. Proposed financing for the project includes:

(A) Issuance by the District of its sewer revenue bond to be purchased by the West Virginia Water Development Authority, on behalf of the West Virginia Division of Environmental Protection Clean Water State Revolving Fund program, in the amount of $16,131,000;

(B) A grant to the District from the West Virginia Water Development Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council, in the amount of $1,183,677, with interim grant funding to be provided by a

West Virginia Water Development Authority Grant Anticipation Note, until the West Virginia Infrastructure and Jobs Development Council grant funds become available;

(C) A grant to the District from the Kanawha County Commission in the amount of $350,000; and

(D) The District's own equity contribution in the amount of $165,000.

The District advised that a significant rate increase of approximately 93.77%, generating increased annual revenues of $831,717, from commodity rates, will be necessary to support the proposed project. The District asserted that the certificate of convenience and necessity should be granted because the proposed improvements will enhance the District's ability to treat its wastewater, address environmental issues, comply with regulatory requirements, allow for future District expansion and improve the quality of the water discharged from its wastewater treatment plant into the Elk River.

On June 5, 2007, the Commission entered a Notice of Filing Order, which required that the Applicant give notice of the filing of its application by publishing a copy of said Notice of Filing, once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Kanawha County, West Virginia, making due return to the Public Service Commission of proper certification of publication immediately after publication. The June 5, 2007 Order stated that anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of publication of the June 5, 2007 Order, unless otherwise modified by Commission order. The June 5, 2007 Notice of Filing also advised the public that failure to timely protest or intervene could affect their right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. In conclusion, the Notice of Filing stated that, if no protests were received within the thirty (30) day period, the Commission could waive formal hearing and grant the application based on the Commission's review of evidence submitted with the application.

On June 19, 2007, the District filed an Amended Wastewater System Improvements Project Rule 42 Exhibit. The District's accountant had reviewed the original Rule 42 Exhibit in greater detail and discovered that adjustments relating to the salary, pension and payroll taxes of the vacated District Manager position, as well as the costs relating to disposing of sludge at the landfill, had been incorrectly recorded as going-level adjustments instead of pro-forma project-related adjustments.

On June 28, 2007, Staff Attorney Wendy Braswell of the Commission's Legal Division filed data requests requesting additional information from the District on behalf of Commission Staff. Staff Attorney Braswell requested that the District file its responses on or before noon, Wednesday, July 18, 2007.

On June 28, 2007, Staff Attorney Braswell filed the Initial Joint Staff Memorandum, along with the Initial Internal Memorandum, prepared by Utilities Analyst Karen L. Buckley of the Commission's Water and Wastewater Division and James C. Weimer, P.E., of the Commission's

Engineering Division. Staff summarized the facts, noted its need for additional information from the District and stated that its review of the District's certificate application would continue and that, upon its conclusion, a final written recommendation would be filed. Staff recommended that the case be referred to the Division of Administrative Law Judges.

On July 9, 2007, the District's attorney filed an affidavit of publication from Charleston Newspapers which demonstrated that the District's Notice of Filing regarding this certificate application had been published as a legal advertisement in *The Charleston Gazette*, a daily newspaper, published in the City of Charleston, Kanawha County, West Virginia, on June 26, 2007.

Also on July 9, 2007, the District's attorney filed the District's responses to Staff's data requests. The responses included attachments from the District's accountant, John Blackwell, and from the District's General Manager, Timothy C. Chapman.

By Commission Referral Order issued on July 11, 2007, the Commission referred the case to the Division of Administrative Law Judges for a decision to be rendered on or before October 18, 2007, if no public protests to the application were filed within thirty (30) days after publication of the Notice of Filing. If public protests were filed within the thirty day public protest period, the Administrative Law Judge decision is to be rendered on or before January 2, 2008.

On July 17, 2007, a letter of protest was received by the Commission from Mark McCoy, of Charleston, West Virginia. On July 18, 2007, a letter of protest was received from Ray and Inez Milam, of Elkview, West Virginia. On July 24, 2007, a letter of protest was received from William and Peggy Holley, of Elkview, West Virginia.

On August 16, 2007, the District filed with the Commission correspondence received from the West Virginia Water Development Authority informing the District that the Water Development Authority was willing to purchase from the District a Grant Anticipation Note (GAN) in the amount of $1,183,677, which may be used by the District as bridge financing for the project until such time as the Infrastructure and Jobs Development Council had funds available to make the grant. The Water Development Authority stated that, "Any grants received by the District would be used to pay the GAN." The Water Development Authority added that the GAN proposal would allow the project to move forward now rather than having to wait until future funding becomes available. The letter stated that, "The terms of this GAN would have a two year maturity date and would carry a 3% interest rate, which would be due and payable upon maturity of the note."

On September 5, 2007, Staff Attorney Braswell filed the Final Joint Staff Memorandum, along with the Final Internal Memorandum, prepared by Utilities Analyst Buckley and Engineering Staff Member Weimer. Staff recommended that the District be granted a certificate of convenience and necessity, excluding the Contract 2 line extensions; that the proposed financing be approved; that the Staff-recommended rates and charges be approved; that, if any changes occur in the plans or scope of the project, the District seek Commission approval; that, if there are changes in the rates to be charged associated with the project, the District also seek Commission approval of such changes; that the District provide a copy of the engineer's certified bid tabulations for each contract associated with

this project, as soon as each becomes available; that the District submit a copy of the "Certificate of Substantial Completion" for each contract associated with this project, as soon as each becomes available; that the District obtain a WVDEP NPDES permit modification approving the addition of the new treatment facilities and pump station modifications, to be evidenced by filing the permit modification within this matter, as a necessary condition of its certificate; that the District provide notification that a permanent vehicular access road to the Coopers Creek lift station had been obtained; and that the District report to Staff on the District's review of the Coopers Creek and Big Chimney lift stations' designs to separate the wet well and dry well and provide protection to the new controls.

On September 13, 2007, the District's attorney, Michael I. Spiker, Esq., filed a motion for an extension of the time frame in which to respond to Commission Staff's final recommendations. Mr. Spiker indicated that the District needed to review the final Staff recommendations with its engineer and that the District's next meeting would not take place until October 2, 2007. The District would not be able to meet with its engineer to review Staff's recommendations within the normal ten (10) day time frame.

On October 4, 2007, Mr. Spiker filed the District's formal objection to a portion of Commission Staff's final recommendations. The District indicated that it specifically objected to the recommendations set forth in Paragraph 8 of the Staff memorandum. The District indicated that its engineer was in the process of reviewing the cost impact of implementing the recommendations set forth by Commission Staff in Paragraphs 8 and 9 of the final Staff memorandum. The District indicated that it would like to meet with the Commission's Technical Staff regarding this matter. The District suggested that the specific Staff recommendations noted above be incorporated in the proposed contract as a deductive alternative. According to the District's attorney, that would allow the District the option of determining if the cost of implementing Staff's recommendations will still fall within the District's budget for the project.

On November 19, 2007, a Procedural Order was issued by the undersigned Administrative Law Judge which scheduled this case for a public hearing on Friday, December 7, 2007.

On November 21, 2007, the District's attorney filed a motion to continue the December 7, 2007 public hearing scheduled in this case. The District's attorney advised that he had a scheduling conflict with the proposed hearing date, i.e., he would be out of state and unable to attend the hearing. He requested that the hearing be continued to a later date.

On November 26, 2007, the District's attorney filed a motion to reschedule the December 7, 2007 hearing and notified the Public Service Commission that Commission Staff and the District had resolved their differences regarding the final Staff recommendations in this case. He advised that a meeting had taken place between the District and Commission Staff and that the District's objections to the final recommendations of Commission Staff were resolved. He indicated that a more formal presentation of how the District's objections to the final Staff recommendations were resolved would be submitted at a later date. The District's attorney advised that the District was "unable to get out

the legal notice required by the Administrative Law Judge Order in a timely manner due to the Holiday."

On November 27, 2007, a Procedural Order was issued by the undersigned Administrative Law Judge which cancelled the public hearing previously scheduled in this matter for December 7, 2007, and rescheduled the public hearing for Thursday, December 13, 2007, at 10:30 a.m. at the Public Service Commission Building located at 201 Brooks Street, Charleston, West Virginia. The District was also ordered to publish the Notice of Hearing, attached to the Procedural Order as Appendix A, as a Class II legal advertisement. The District was also ordered to submit proof of compliance with the notice provisions of Rule 10.3.d. of the Commission's *Rules of Practice and Procedure* and to make due return to the Commission at the December 13, 2007 hearing of an affidavit of publication regarding the Notice of Hearing.

On November 29, 2007, the District's attorney filed correspondence with the Commission which included proof that the District complied with the public notice requirements of *Procedural Rule* 10.3.d. The District provided a letter from its General Manager, Timothy C. Chapman which stated that the District had mailed to all customers, as a separate mailing, a copy of the Notice of Filing issued by the Public Service Commission in this case. The District also provided a copy of the invoice it received from the printing company for printing copies of the Notice of Filing, as well as a copy of its cancelled check, payable to the US Postal Service, in the amount of $842.38, issued on July 9, 2007.

A public hearing in this case convened as scheduled on December 13, 2007. The Applicant, Elk Valley Public Service District, appeared and was represented by Michael I. Spiker, Esq., of Goodwin & Goodwin, LLP. Staff Attorney Wendy Braswell, Esq., appeared on behalf of Public Service Commission Staff. The District offered testimony from its General Manager, Timothy C. Chapman, and its consulting engineer, Paul Ghosh, P.E. Commission Staff presented the testimony of James C. Weimer, P.E., of the Commission's Engineering Division and Utilities Analyst Karen Buckley, of the Commission's Water and Wastewater Division. The District offered one (1) exhibit into evidence, an affidavit of publication from *The Charleston Gazette*, which affirmed that the Notice of Hearing had been published therein on November 30, 2007, and December 7, 2007. Commission Staff introduced into evidence one (1) exhibit, a copy of the Commission Staff's Final Joint Staff Memorandum, dated September 5, 2007, along with its attachments.

On December 20, 2007, the transcript of the hearing held in this matter on December 13, 2007, in Charleston, West Virginia, was filed by the Commission's Court Reporter.

On December 21, 2007, Elk Valley Public Service District submitted into the record in this case a letter dated December 18, 2007, signed by John D. Blackwell, its Certified Public Accountant, which indicated that he had been advised by Tim Chapman, the District's General Manager, that the District intends to draw the funds to pay the additional engineering fees, not to exceed $55,000, from the Renewal and Replacement (R&R) account that they maintain with the West Virginia Municipal Bond Commission. Mr. Blackwell stated that, "There are sufficient funds in this discretionary account, and drawing on these funds will not put you in violation of any of the covenants of your

existing bond documents. Further, since no future revenues of the District will be drawn to fund these engineering costs, the rates and charges calculated in the above mentioned Rule 42, and subsequent PSC recommendations will be sufficient to cover future revenues necessary as certified in the preceding paragraph relating to the project."

EVIDENCE

The District's first witness was its General Manager, Timothy Craig Chapman, who was actively involved in preparing the certificate application and who worked with the private engineering firm on the project design and costs analysis. Mr. Chapman testified that the application accurately described the need for the sewer plant upgrades, the project cost, the project financing and the proposed rates. (Tr., p. 10). He testified that the project is necessary and is needed to support growth in the valley. The project also will allow the District to comply with the terms of a Consent Order entered into between the District and the West Virginia Division of Environmental Protection, which required that the District eliminate eight (8) sanitary sewer overflows and which brought about the need for a new treatment plant design and new transmission lines, as well as the upgrading of existing lift stations. (Tr., p. 11). He stated that, after evaluating all project alternatives, the District concluded that this project was the most feasible way to address the District's needs. The District's existing treatment plant, located on the banks of the Elk River, discharges approximately eight (8) miles upstream from the water intake of West Virginia American Water Company. The Elk River is the water source for the City of Charleston. When the project is completed, the District's discharge will be improved as will the water quality at the point of discharge. (Tr., p. 11-12).

Mr. Chapman explained that an exchange of land between the District and Norfolk and Southern Railroad is required as part of this project. (Tr., p. 13). As originally designed, the treatment plant was to be located on both sides of the Norfolk and Southern Railroad tracks which currently are located on the District's property. The railroad would not approve the project's design and it had to be redesigned. The redesigned treatment plant will be located entirely on one side of the railroad tracks, after the property exchange. Since no trains have used the existing railroad tracks for over fifty (50) years, the District suggested that the railroad declare the tracks to be abandoned. The railroad told the District that the existing tracks were not considered to be abandoned. (Tr., p. 14). As part of this project, the District will be required to construct new railroad tracks to replace the currently existing railroad tracks. The District made a request at the hearing for approval of the land transfer or "swap" with the railroad. (Tr., p. 15).

Mr. Chapman explained that the District also needed Public Service Commission consent and approval, as a part of this certificate application case, to add two (2) separate deductive alternatives to the project to address Technical Staff's concerns about the Big Chimney and Coopers Creek lift stations. (Tr., p. 18-19). He testified that Commission Staff recommended that the District upgrade the existing Big Chimney and Coopers Creek lift stations as part of this project. Technical Staff's concerns regarding access to the Coopers Creek lift station has been addressed through the District's procurement of a right-of-way from the landowner. The Big Chimney lift station also needed an emergency source of power. These upgrades were not part of the project as originally submitted.

(Tr., pp. 16-17). If the deductive alternative for the Coopers Creek lift station upgrades can be financed and built, no need would exist for the access right-of-way because the entire lift station would be moved out of the flood plan and onto a state highway right-of-way. (Tr., p. 18). He testified that Commission Staff, the District's engineers and its Board of Commissioners all agree that, if enough contingency money is left after the project is developed, then the District will build both of these projects, i.e., the Coopers Creek and the Big Chimney lift stations. (Tr., p.18). Mr. Chapman requested on behalf of the District that the Public Service Commission approve both deductive alternatives as two (2) independent deductive alternatives. Both deductive alternatives, if approved, would be bid with the original project. By bidding them as two separate deductive alternatives, one could be build if there is not enough funding to build both. (Tr., p. 18-19).

Since the present contract with Ghosh Engineers does not include the design cost for the two (2) deductive alternatives, the District and Ghosh Engineers have agreed to an additional engineering fee of up to $55,000 for the design of the two (2) new deductive alternatives. (Tr., p. 21). These additional engineering fees will not increase the overall capital cost of the project. (Tr., p. 22). Mr. Chapman testified that the District intends to pay for the additional engineering fees from available cash. The District currently has in its replacement and reserve fund enough money to cover that design cost at this time. (Tr., p. 27). However, he stated that, should the District be unable to self-fund the additional engineering fees, it would need to engage in short term borrowing. (Tr., p. 22). Mr. Chapman requested that the Public Service Commission grant its consent and approval for the District to enter into short term borrowing of an amount not to exceed $55,000. (Tr., p. 22). The witness stated that, even though he had not actually performed the calculations, he believed that the District could engage in additional borrowing without causing its debt service coverage ratio to drop below 115%. (Tr., p. 23). He believes the District's current debt service coverage ratio is 121%. The District's bonds require a debt service coverage ratio of 115%. (Tr., p. 22). Mr. Chapman stated that the deductive alternatives will have no impact on the rates proposed by the District in this certificate case. Mr. Chapman believes this project is necessary and convenient. According to Mr. Chapman, the District has begun to plan for Phase II of the sewer upgrade and improvement project, which will include the addition of 750 new customers who currently do not have public sewer service. (Tr., p. 24). He added that the current project is necessary before the District can proceed with the Phase II project. (Tr., p. 25). He requested on behalf of the District that the Public Service Commission approve the certificate application as originally filed, along with the amendments for two deductive alternatives. (Tr., p. 26). Mr. Chapman testified that the District would, if necessary, consider borrowing from a local financial institution or obtaining a short term loan from the Water Development Authority. (Tr., p. 30).

The District's final witness was Paul Ghosh, an engineer and owner of Ghosh Engineering, who prepared the project's plans and specifications filed in this case and who worked on the engineering and financial projections. (Tr., p. 33). He testified that the project drawings, specifications and bidding documents had already been approved by the West Virginia Division of Environmental Protection prior to the filing of the certificate application. They were already reviewed by West Virginia infrastructure and Jobs Development Council and the State Development Fund Program. In this case, all the funding will come from the State Development Fund, with a small amount from the Water Development Fund. (Tr., p. 34). The rehabilitation and/or relocation of the

Big Chimney and Coopers Creek lift stations were not part of the original project but were added in response to Staff's concerns. The District has agreed to include rehabilitation and/or relocation of the Big Chimney and Coopers Creek lift stations if this can be done without increasing the user charges. This could only happen if the project bids come in under budget or if the District can obtain additional grant money. (Tr., p. 35). In order to include the two (2) new deductive alternatives in the project bids, the required engineering design work must be done now. He testified that the additional engineering fees would be approximately $55,000. (Tr., p. 36). Mr. Ghosh advised that the District intends to pay for the additional engineering fees from available funds. He then explained that the Water Development Authority has a special program for funding design loans. During the first two years of the loan only the interest is payable at an interest rate of 3%. At the end of two years, the entire principle becomes payable or it can be rolled into a 40-year loan at standard Water Development Authority interest rates. (Tr., p. 37).

Mr. Ghosh testified that the District plans to advertise the project for bids by the end of January 2008. (Tr., p. 37). The District must have approval from the State Revolving Fund to bid the project. The State Revolving Fund will not approve the project for bidding unless all required permits have been obtained. The Public Lands permit has been received. The District has an existing WV Division of Environmental Protection NPDES permit for its existing treatment facility which must be revised or reissued because the capacity of the treatment plant is to be increased. An application for a revised or amended NPDES permit has been filed but the permit has not yet been approved. He has no reason to think it will not be approved. He added that the District has received the Division of Environmental Protection permit for sedimentation and erosion control. (Tr., pp. 38-39).

Mr. Ghosh testified that he expects to complete the additional design work by the end of January 2008. He requested on behalf of the District that the Public Service Commission approve the original project, including the Big Chimney and Coopers Creek lift station improvements, as two separate deductive alternatives. (Tr., p. 40). Mr. Ghosh believes that it would be advisable for the District to include the Big Chimney and Coopers Creek lift station upgrades in its Phase II project if funding does not become available in this certificate project. (Tr., p. 41).

While Mr. Ghosh testified that adding the two deductive alternatives will enlarge the project scope, he did not consider the additional engineering work associated with the two deductive alternatives to be substantial engineering work. He testified that, if money or funding was not an issue, the Big Chimney and Coopers Creek lift station deductive alternatives would be necessary. However, money and affordability are always an issue. Mr. Ghosh designed the project based upon the best information available to the District. Opinions will always differ about which element of the project should be included and which elements should not be included. (Tr., p. 42). Such decisions regarding feasibility were made in the facilities planning stage, before the project design work was done. He stated, "But again, we have to draw the line somewhere and we did." (Tr., p. 43-44).

Mr. Ghosh testified that, given that the project cost of almost $18,000,000 is almost entirely loan funded, the District may now be in a much better position to argue for a grant at this point than they were three years ago. (Tr., p. 45).

Staff's first witness was James C. Weimer, P.E., a member of the Public Service Commission's Engineering Division. Mr.Weimer holds a Masters Degree in Mechanical Engineering from Penn State University and has been employed in the Commission's Engineering Division for the past seven (7) years. (Tr., p. 47, 48). He conducted the engineering review and investigation of the District's certificate application and prepared a portion of the Final Internal Memorandum in this matter. (Tr., p. 49). His review included a field visit at the District; a review with the District's General Manager of the project proposals from a physical point of view; a review of the physical locations of the infrastructure changes proposed in the project; a review of the project drawings submitted by the District's engineering firm; a review of the contract documents; and a review of the economics of the proposed project with respect to costs. (Tr., p. 50). Mr. Weimer reported that the purpose of the project was to remove sanitary sewer overflows which have resulted in the District entering into a Consent Order with the West Virginia Division of Environmental Protection; to improve plant capacity; to replace old, worn out equipment in the plant; and to prepare the plant for the future. (Tr., p. 50).

Mr. Weimer concluded that the project proposed by the District in this certificate case is "entirely necessary for the future operation of Elk Valley Public Service District." (Tr., p. 51). During his review of the project, Mr. Weimer found that two of the District's sewage lift stations located in the flood plain were not included in the project. Mr. Weimer noted that one of those two lift stations, known as the Big Chimney lift station, handles about eighty percent (80%) of the flow going into the plant. He opined that, if it were ever submerged, e.g., due to a flood, it would create a significant environmental hazard as well as significant problems for customers. He recommended that upgrades to not only the Big Chimney lift station, but also the Coopers Creek lift station, should be addressed by the District in this certificate case, if funds are available. He opined that these two lift stations should be upgraded and moved out of the flood plain. (Tr., p. 51). Since access to the Coopers Creek lift station is important to the long term maintainability of the lift station, Mr.Weimer recommended that the District obtain a right-of-way from the landowner for continued vehicular access to the lift station. (Tr., p. 51). Mr. Weimer is satisfied with the District's efforts to address his concerns with regard to the Big Chimney and Coopers Creek lift stations. (Tr., p. 52).

Since the contingency line item in the project budget is fairly large, Mr.Weimer believes that both of the deductive alternatives likely can be constructed in this case, unless the bids come in significantly higher than anticipated. (Tr., p. 52). He does not consider the additional $55,000 in engineering fees required for the design of the two deductive alternatives to be a substantial addition to the design costs of this project. He stated that the two deductive alternatives would change the project scope, but in a minor way in terms of the overall project. He was hopeful that additional borrowing would not be required to fund the additional design work. (Tr., p. 53). Mr. Weimer testified that his recommendation that the certificate application be approved was not made conditioned upon inclusion of the two deductive alternatives. (Tr., p. 53). He stated that the proposed project expenses were reasonable and that the cost per customer of $3,735 was acceptable. (Tr., p. 54). He stated that the project was in general conformance with the Public Service Commission's rules and regulations. (Tr., p. 54).

Staff's final witness was Utilities Analyst Karen Buckley, a nine (9) year employee of the Commission. Ms. Buckley holds a degree in finance from West Virginia State College. She conducted the financial review of the District's certificate application and participated, along with Mr. Weimer, in preparation of the Final Internal Memorandum regarding this case. (Tr., p. 56). She outlined the various sources of project funding and concluded that a rate increase was needed to support this project due to the large loan of $16,131,000 from the West Virginia Division of Environmental Protection Clean Water State Revolving Loan Fund. (Tr., p. 58). Staff recommended a rate increase of 53.1%. (Tr., p. 58). Ms. Buckley reported that, based upon the Staff-recommended rates and charges, the sewer bill of a customer using 4,500 gallons of water per month would increase from $27.01 to $41.38. (Tr., p. 58). She opined that without the Staff-recommended rate increase, the District would not be able to make the loan payments required by the project. (Tr., p. 59). Ms. Buckley advised that the State Revolving Fund loan requires that the District maintain a reserve fund of 10% of the annual payment and a depreciation reserve fund of 2 ½% of operating revenues. (Tr., pp. 60-61). Staff's recommended rates include both of the reserve funds detailed above. (Tr., p. 61). She added that the Staff-recommended rates and charges result in a pro forma surplus of $69,990 and a debt service coverage ratio of 115.74%. The State Revolving Fund requires a debt service coverage ratio of 115%. (Tr., p. 61).

Ms. Buckley expressed her concern that the District might drop below the required debt service coverage ratio if it attempted to fund the additional engineering fees required to pay for design of the two deductive alternatives from its own funds. She suggested that the District review its annual report for the fiscal year ending on June 30, 2007, and run a new cash flow analysis to make sure they would still meet the coverage requirements. (Tr., p. 62). She added that, if the District decides to use its own funds for the additional engineering fees, is should be unencumbered funds. (Tr., p. 62).

No customer or other persons appeared at the December 13, 2007 public hearing to either support or protest the District's project, except for those witnesses presented by the District and Commission Staff.

DISCUSSION

Commission Staff recommended approval of Elk Valley Public Service District's certificate application and that recommendation, along with several additional recommendations, was clearly set forth in the Final Joint Staff Memorandum and the Final Internal Memorandum, which were filed by Staff Attorney Braswell on September 5, 2007, and received as Staff Exhibit No. 1 at the hearing. These documents were mailed to the District on September 5, 2007. In response thereto, the District's attorney advised the Public Service Commission that the District objected to Paragraphs 8 and 9 of the Final Internal Memorandum. The District reviewed the cost impact of implementing the recommendations contained in Paragraphs 8 and 9 of the Final Internal Memorandum and met with Commission Staff to discuss these issues. The District acknowledged that it was possible that the two Staff recommendations could be incorporated into the proposed contract as deductive alternatives, which would allow the District the option of determining whether the cost of implementation of

Staff's recommendations contained in Paragraphs 8 and 9 could be included within the District's budget for the project.

At the December 13, 2007 Public Service Commission hearing on this matter, the District and Commission Staff announced that they had reached an agreement regarding how the District would address the Staff recommendations contained in Paragraphs 8 and 9 of the Final Internal Memorandum. The District's attorney and its General Manager stated on the record that, as to Staff's recommendation in Paragraph 8, the District had obtained a vehicular access road and right-of-way from the landowner for access to the Coopers Creek Lift Station. As to Staff's recommendations contained in Paragraph 9 of the Final Internal Memorandum, the District stated that, after discussions with Commission Staff, it has agreed to request that the certificate application be amended to include approval of the two (2) deductive alternatives, one relating to the Staff recommended upgrades to the Big Chimney Lift Station and one relating to the Staff recommended upgrades to the Coopers Creek Lift Station. The District explained that, even though upgrades for these two lift stations were not included in the original project, it was now seeking approval of the Staff-recommended upgrades as deductive alternatives, to be constructed should project contingency funding become available, or, in the alternative, should the District obtain additional grant funding to construct the Staff recommended upgrades. The District clarified that it was willing to implement the Staff recommendation contained in Paragraph 9 of the Final Internal Memorandum, as long as it created no additional cost to its customers.

The District also explained at the hearing that the upgrades for the Coopers Creek and Big Chimney lift stations were not part of the original engineering project design. Therefore, the upgrades would need to be designed and included as part of the project documents before the project was advertised for bids. The District advised that it had agreed with Ghosh Engineers on additional engineering fees of $55,000 for the additional engineering design work associated with upgrading the two (2) additional lift stations. Mr. Weimer, the Commission's engineering witness, testified that the engineering work associated with upgrading the Coopers Creek and Big Chimney lift stations was not substantial in light of the whole project and that the engineering fees of an amount not to exceed $55,000 was not unreasonable.

In light of the facts set forth above and in light of the testimony and evidence offered at the December 13, 2007 public hearing in this matter, it is reasonable to conclude that the District's certificate application, as amended by the District at the December 13, 2007 public hearing to include the two Staff-recommended deductive alternatives, should be approved, as set forth and described by Staff Exhibit No. 1. Specifically, it is reasonable to approve the Staff-recommended upgrades to the District's Big Chimney and Coopers Creek lift stations as two (2) separate deductive alternatives to the original project proposed by the District, contingent upon submission to Commission Staff of design drawings for the upgrades as soon as they become available to the District. The testimony of the District's witnesses, as well as that of Commission representatives, Mr. Weimer and Ms. Buckley, adequately demonstrates that this project, including the two proposed deductive alternatives, is necessary to sustain growth in the area; to comply with the Consent Order entered into between the District and the West Virginia Division of Environmental Protection; to eliminate eight (8) sanitary

sewer overflows; and to relocate the Big Chimney and Coopers Creek lift stations out of or away from the flood plain. Information contained within the record, as well as the testimony offered at the December 13, 2007 hearing, demonstrates that the project, as amended, is convenient. While other alternatives to this project were evaluated, this project, as amended, is the most feasible way to address the District's needs. Mr. Weimer, Staff's engineering witness, testified that the District's proposed project is "entirely necessary for the future operation of Elk Valley Public Service District."

The original project budget did not include the additional engineering fees of up to $55,000 for upgrading the Big Chimney and Coopers Creek lift stations. To address this matter, the District made a motion at the December 13, 2007 hearing that the Public Service Commission grant its consent and approval as part of this certificate case for the District to incur the associated additional engineering expenses, indicating that it could pay the additional $55,000 in engineering fees out of its own funds, without incurring any additional debt or borrowing and without causing the District to drop below its required debt service coverage ratio of 115%. The District intends to use its own available funds to pay the additional engineering fees. The State Revolving Fund has a program for funding design loans. The District requested that the Public Service Commission grant, as part of this case, its consent and approval of short term borrowing to cover the additional engineering fees of $55,000, should the District not have available funds sufficient to cover the cost. As a post-hearing exhibit, the District filed a letter from its certified public accountant, John D. Blackwell, which stated that he had been advised by the District's General Manager that the District intended to draw the funds to pay the additional engineering fees, not to exceed $55,000, from the District' Renewal and Replacement account maintained with the West Virginia Municipal Bond Commission. Mr. Blackwell stated that, "There are sufficient funds in this discretionary account, and drawing on these funds will not put you in violation of any of the covenants of your existing bond documents." Since Staff requested at the December 13, 2007 hearing that the District file this post-hearing exhibit and since Staff has not objected thereto, it is reasonable to conclude that the District has discretionary funding available to cover the additional engineering fees, not to exceed $55,000. Therefore, the District's request to use its own available funding to cover the cost of the additional engineering design work associated with upgrading the Big Chimney and Coopers Creek lift stations will be approved.

As discussed above, since the public convenience and necessity requires the project, as amended to include the two Staff-recommended deductive alternatives, the Commission should grant the application to the extent recommended by Staff.

The District's request for consent and approval of short term borrowing to cover the additional engineering costs is moot in light of the uncontroverted statements contained within the District's December 18, 2007 letter from John D. Blackwell, CPA.

Finally, since the District did not object to the Staff-recommended rates and charges, which will increase revenues by approximately $795,703, or 53%, while providing a 115.74% debt service coverage and a $69,980 cash flow surplus, they should be approved.

FINDINGS OF FACT

1. On June 5, 2007, Elk Valley Public Service District filed an application with the Public Service Commission for a certificate of convenience and necessity to construct certain additions, improvements and upgrades of its existing sewage treatment and collection system located in the Elkview, Clendenin, Big Chimney and Pinch areas of Kanawha County, West Virginia. The project as originally filed by the District includes the upgrade of nine (9) existing wastewater lift stations, expansion of the treatment plant and related appurtenances. (See, June 5, 2007 filing).

2. Elk Valley Public Service District published the Notice of Filing, issued by the Public Service Commission on June 5, 2007, as a legal advertisement, in *The Charleston Gazette*, a daily newspaper, published in the City of Charleston, Kanawha County, West Virginia, on June 26, 2007. (See, affidavit of publication filed July 9, 2007).

3. The total estimated project cost is $17,829,000, and the majority of the project funding is in the form of a loan. The District has funding commitments for a loan in the amount of $16, 131,000 from the West Virginia Division of Environmental Protection Clean Water State Revolving fund; a West Virginia Infrastructure and Jobs Development Council grant in the amount of $1,183,677; a Kanawha County Commission grant in the amount of $350,000 and an equity contribution from Elk Valley Public Service District in the amount of $165,000. (See, application and funding letters filed June 5, 2007).

4. The West Virginia Water Development Authority will provide interim grant financing through a Grant Anticipation Note, to be used by the District until such time as permanent grant funds become available. (See, application and funding letter filed August 16, 2007).

5. The West Virginia Division of Environmental Protection Clean Water State Revolving Fund loan will be repaid over a period of thirty (30) years at an interest rate of 0% , with a ½ % administrative fee. The loan conditions require that the District fund a debt reserve equal to 10% of the annual payment, or $53.768, and a depreciation/renewal and replacement reserve equal to 2.5% of operating revenues. (See, application and funding letters filed June 5, 2007).

6. Annual debt service payments on the $16,131,000 West Virginia Division of Environmental Protection Clean Water State Revolving Fund loan will be $577,891, including the administrative fee. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

7. Operation and maintenance expenses are projected to increase by approximately $140,140 as a result of the project proposed herein. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

8. The District's current rates are not adequate to offset the various costs and expenses associated with the construction of the proposed project, the additional debt service associated with the project, increased operation and maintenance expenses of the District's system and the District

proposed a 93.8% increase in its commodity charge to cover the increased costs. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

9. Staff recommended an across-the-board rate increase of approximately 53%, which would generate the same level of additional operating revenues as the rates proposed by the District. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

10. The Staff-recommended rates will generate a level of revenue sufficient to offset the various costs and expenses associated with construction of the proposed project, debt service requirements and the additional operation and maintenance expenses associated with the proposed project. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

11. The Staff-recommended rates and charges associated with the proposed project are projected to generate an additional $795,703 in annual operating revenues. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

12. The Staff-recommended rates and charges associated with the proposed project will generate a preform surplus of approximately $69,990 and a debt coverage ration of 115.74%.

13. The District is currently under a Consent Order from the West Virginia Division of Environmental Protection pursuant to which it must make sewage system improvements, limit current plant and lift station violations and overflows. (See, Final Joint Staff Memorandum, and attachments, filed September 5, 2007).

14. The sewage system improvements proposed in this certificate case are necessary to increase plant capacity; reduce system overflows during rain events; to replace aging and inferior equipment; to address growth in the areas served; and to improve the treatment plant discharge and the water quality at the point of discharge into the Elk River and as a mandatory precursor to the District's Phase II sewage project, which will add approximately 750 new sewage customers. (See, Tr., p. 10, 11, 12, 24, 25).

15. After the District published the Notice of Filing, several letters of protest to the District's proposed project and associated rate increase were received by the Public Service Commission. (See, July 17, 18 and 24, 2007 filings).

16. The District proposed an amendment of its original certificate application at the December 13, 2007 Public Service Commission hearing. The District proposed two (2) separate deductive alternatives be added to the original project for upgrades to its existing Big Chimney and Coopers Creek lift stations, in response to concerns expressed by the Commission's Engineering Staff regarding the fact that both lift stations are in the flood plain. (See, Tr., p. 18-19, 26, 40).

17. Commission Staff expressed its satisfaction with the District's efforts to address the need for upgrades at the Big Chimney and Coopers Creek lift stations. (See, Tr., p. 52).

18. The District' original project, as filed with the Public Service Commission on June 5, 2007, did not include within its scope upgrades at the Big Chimney and Coopers Creek lift stations, nor did the project budget include any engineering design fees for necessary design work on the Big Chimney and Coopers Creek lift stations. (See, Tr., p. 21, 35).

19. The District and its professional engineering firm, Ghosh Engineers, Incorporated, have agreed on additional engineering fees, not to exceed $55,000, for the additional engineering design work required for the two deductive alternatives proposed for upgrades on the Big Chimney and Coopers Creek lift stations. (See, Tr., p. 21, 36).

20. The District has indicated that it intends to use its funds from its own replacement and reserve fund to pay the additional engineering costs of up to $55,000 for design of the two deductive alternatives. (Tr., p. , 22, 36-37).

21. The District submitted a post-hearing exhibit from its certified public accountant, John D. Blackwell, which reported that there are sufficient funds in the District's Renewal and Replacement account maintained with the West Virginia Municipal Bond Commission, to cover the additional engineering fees of $55,000, without causing the District to violate any of the covenants of its existing bond documents. (See, December 21, 2007 filing).

22. The District requested at the December 13, 2007 Public Service Commission hearing that Commission consent and approval be granted for a land transaction/exchange between the District and Norfolk and Southern Railroad. (See, Tr., p. 13, 15).

23. Norfolk and Southern Railroad currently has railroad tracks located on a right-of-way passing through property owned by the District. The current right-of-way is 1,000 to 1,500 feet in length, and sixty-six (66) feet wide. (See, Tr., 13).

24. The District's original treatment plant design was for part of the plant to be located on each side of the existing railroad tracks. The original plans were submitted to Norfolk and Southern Railroad for approval and Norfolk and Southern would not approve the District's plan. Norfolk and Southern requested that the plant be redesigned completely on one side of the tracks. (See, Tr., p. 14).

25. The District's treatment plant was redesigned completely on one side of the tracks, but the plans require that the existing railroad tracks be relocated. (See, Tr., p. 15).

26. No trains have used the existing Norfolk and Southern Railroad tracks for approximately fifty (50) years. (See, Tr., p. 14).

27. Norfolk and Southern Railroad informed the District that the existing railroad tracks were not considered by the railroad to be "abandoned' railroad tracks and required that the District rebuild new railroad tracks in the new railroad right-of-way. (See, Tr., p. 14).

28. The District will need to relocate the existing railroad tracks to make room to construct the entire treatment plant on one side of the new railroad tracks and to accomplish this, a land trade must be made between the District and Norfolk and Southern Railroad. (See, Tr., 14,15).

29. Commission Staff opined that the public convenience and necessity require the project. (See, Tr., pp. 47-50).

30. The two deductive alternatives involving the Big Chimney and Coopers Creek lift stations are necessary for the future development of the District and should be built if funding becomes available. (See, Tr., pp. 50-54; 62).

31. The contingency line item should be sufficient to include the two deductive alternatives in the project. (See, Tr., pp. 52-54).

32. The Staff-recommended rates and charges, which will increase revenues approximately 53%, will cover all operation and maintenance expenses once the project becomes operational and will provide a 115.74% debt service coverage, including funding required reserves, while providing a sufficient $69,900 cash flow surplus. (See, Tr., pp. 58-62; Staff Exhibit No. 1).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the sewage treatment and collection system additions and improvements proposed by Elk Valley Public Service District, as described in its certificate application filed herein on June 5, 2007.

2. The public convenience and necessity also require the addition of the two (2) deductive alternatives to the District's original certificate application, i.e., the Coopers Creek and Big Chimney lift stations, as described and proposed by the District at the December 13, 2007 hearing, which are supported by Commission Staff.

3. It is reasonable to grant Elk Valley Public Service District's application for a certificate of public convenience and necessity to construct the additions and improvements to its existing sewage treatment and collection system, proposed in its original application (excluding the Contract 2 line extensions).

4. It is reasonable to grant the District's December 13, 2007 motion to amend its original certificate application to include the two (2) separate deductive alternatives described by the District at the December 13, 2007 Public Service Commission hearing and supported by Commission Staff.

5. It is reasonable to grant the District's motion for consent and approval of the land transaction required for this project between the District and Norfolk and Southern Railroad, as described by the District's witness, Mr. Chapman, at the December 13, 2007 hearing.

6. It is reasonable to approve the proposed financing for the proposed project, including a loan in the amount of $16,131,000 from the West Virginia Division of Environmental Protection Clean Water State Revolving Fund; a West Virginia Infrastructure and Jobs Development Council grant of $1,183,677; a Kanawha County Commission grant of $350,000 and an equity contribution by Elk Valley Public Service District of $165,000.

7. It is reasonable to approve the District's request to use an amount not to exceed $55,000 from its Renewal and Replacement account maintained with the West Virginia Municipal Bond Commission to cover the additional engineering fees associated with the amendment of the original project to include the two (2) deductive alternatives described at the December 13, 2007 Public Service Commission hearing.

8. Since the Staff-recommended rates and charges are sufficient, but not more than sufficient, to cover all of the operations and maintenance expenses and debt service requirements as a result of the project, while providing a $69,000 cash flow surplus, it is reasonable to approve the Staff-recommended rates and charges.

9. It is also reasonable to approve the Staff-recommended conditions for granting the certificate application.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity to construct certain upgrades and improvements to its existing sewage treatment and collection system in the Elkview, Clendenin, Pinch and Big Chimney areas of Kanawha County, West Virginia, filed by Elk Valley Public Service District on June 5, 2007, as amended by motion of Elk Valley Public Service District on December 13, 2007 at the public hearing in this matter, be, and hereby is, granted.

IT IS FURTHER ORDERED that the financing for the project, consisting of (a) West Virginia Division of Environmental Protection Clean Water State Revolving Fund Program loan (on behalf of the West Virginia Water Development Authority) in the amount of $16,131,000 at 0% interest for a term of 30 years with a ½ % administrative fee; (b) West Virginia Infrastructure and Jobs Development Council grant (on behalf of the West Virginia Water Development Authority) in the amount of $1,183,677; (c) Kanawha County Commission grant in the amount of $350,000; and (d) an equity contribution by the Elk Valley Public Service District of $165,000, be, and hereby is, approved.

IT IS FURTHER ORDERED that the Staff-recommended rates and charges, attached as Appendix A, be, and hereby are, approved for all service rendered by the District after the project is operational.

IT IS FURTHER ORDERED that, within 30 days of the project becoming operational, the District file an original and at least five (5) copies of a proper tariff setting forth the rates and charges hereby approved.

IT IS FURTHER ORDERED that the District's motion for consent and approval of additional engineering fees in an amount not to exceed $55,000, for design of the Big Chimney Lift Station and Cooper's Creek Lift Station upgrades described by the District at the December 13, 2007 hearing in this matter, be, and hereby is, approved.

IT IS FURTHER ORDERED that the District's motion for consent and approval to use an amount not to exceed $55,000 of its own unencumbered funds as payment for additional engineering fees for design of the Big Chimney Lift Station and Cooper's Creek Lift Station upgrades described by the District at the December 13, 2007 hearing in this matter, be, and hereby is approved.

IT IS FURTHER ORDERED that, should the District's plan to use its own unencumbered funds as payment for additional engineering fees for design of the Big Chimney Lift Station and the Cooper's Creek Lift Station fail, the District file a separate case with the Public Service Commission seeking consent and approval for any additional borrowing.

IT IS FURTHER ORDERED that the proposed land exchange agreement with the Norfolk and Southern Railroad be, and hereby is, approved.

IT IS FURTHER ORDERED that Elk Valley Public Service District submit a Certificate of Substantial Completion for each contract associated with this sewer project from its professional engineer, as soon as each becomes available.

IT IS FURTHER ORDERED that Elk Valley Public Service District file a copy of the engineer's certified tabulation of bids for each construction contract or vendor bid contract awarded for this project, within ten (10) days of the bid opening date.

IT IS FURTHER ORDERED that, should there be any changes in the scope, plans or financing of the project, or if a change in project cost affects the rates approved for the project, Elk Valley Public Service District obtain Public Service Commission approval of such changes, prior to commencing construction.

IT IS FURTHER ORDERED that, if there is any change in project cost that does not affect rates, Elk Valley Public Service District is not required to obtain Commission approval of such change. However, Elk Valley Public Service District shall, in such case, file an affidavit with the Public Service Commission, duly executed by its Certified Public Accountant, verifying that rates are not affected.

IT IS FURTHER ORDERED that, if this project requires the use of Division of Highways' rights-of-way, Elk Valley Public Service District comply with all rules and regulations of the Division of Highways regarding the use of those rights-of-way.

IT IS FURTHER ORDERED that this matter be, and hereby is, removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this Recommended Decision upon all parties to this proceeding by United States Certified Mail, return receipt requested and upon Commission Staff by hand delivery.

Leave is hereby granted to the parties to file written exceptions, supported by a brief, with the Executive Secretary of the Public Service Commission, within fifteen (15) days of the date this Recommended Decision is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed, this Recommended Decision shall become the order of the Commission, without further action or order, five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Recommended Decision by filing an appropriate petition, in writing, with the Commission's Executive Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make an Administrative Law Judge's Recommended Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Public Service Commission.

Cecelia Gail Jarrell

Cecelia Gail Jarrell
Administrative Law Judge

CGJ:s
071024ab.wpd

ELK VALLEY PUBLIC SERVICE DISTRICT
CASE NO. 07-1024-PSD-CN

APPROVED RATES

SCHEDULE I

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service and sale for resale sewer service.

RATES (Customers with metered water supply)

Service charge:	$16.76 per month
Usage charge:	$5.47 per 1,000 gallons water usage

FLAT RATE CHARGE (Customers with non-metered water supply)

Equivalent to 4,500 gallons of water usage, $41.38 per month.

MINIMUM CHARGE

No bill will be rendered for less than $16.76 per month, which is the equivalent of the monthly service charge.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00, will be imposed upon any customer whose check for payment of charges is returned by the bank due to insufficient funds.

DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

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

TOWN OF CLENDENIN PUBLIC UTILITY EXCISE TAX

The municipality listed below having imposed a public utility tax computed on the basis of two percent (2) of revenues from sewer service sales by the sewer utility within the corporate limits of such municipality, said tax shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code §8-13-5A.

Municipality	Local Tax Rate
Town of Clendenin	2%

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 the utility installs a new tap to serve an applicant:

A tap fee of $250.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This preconstruction 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 $250.00 will be charge to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

LEAD ADJUSTMENT

$0.96 per M. gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

SCHEDULE II

SURFACE OR GROUND WATER SURCHARGE

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 utilities sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility 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 collecting surface connected to the sanitary sewer, in square feet

R = the measured monthly rainfall, in inches

C = $6.92. The District's approved rate per thousand gallons of metered water usage.

0.0006233 = A conversion factor to change inches of rain x square feet of surface to thousands of gallons of water

The utility 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.

SCHEDULE III

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.

$$Ci = VoVi + BoBi + SoSi$$

Ci = charge to unusual users per year
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per gallon
Vi = volume of wastewater from unusual users, in gallons per year
Bo = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD) in dollars per pound
Bi = weight of BOD from unusual users, in pounds per year
So = average unit cost of treatment (including sludge treatment) chargeable to total solids in dollars per pound
Si = 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 judgement of the Elk Valley 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 Elk Valley Public Service District 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 Elk Valley 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.

SCHEDULE IV

Where the amount of sanitary sewage discharged into the waste treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Elk Valley Public Service District a sewer charge calculated at fifty (50) gallons of water per employee at the plant each working day.

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 7th day of August 2008.

CASE NO. 07-1024-PSD-CN (REOPENED)

ELK VALLEY PUBLIC SERVICE DISTRICT,
a public utility, Elkview, Kanawha County.
Application for a Certificate of Convenience
and Necessity to construct improvements to
existing sewer treatment plant, lift stations
and related appurtenances.

COMMISSION ORDER

The Commission grants Elk Valley Public Service District's ("District's") request to reduce the scope of the project, accept additional loan funds and impose an additional rate increase.

BACKGROUND

On June 5, 2007, the District filed an application for a certificate of Convenience and Necessity ("Certificate") to make additions and improvement to its sewer system. The District planned to fund the project from a variety of sources including grants and a loan from the West Virginia Division of Environmental Protection Clean Water State Revolving Fund Program ("SRF"). The District proposed repaying the loan with a 93.77% rate increase. See, Application.

The Commission referred this matter to the Division of Administrative Law Judges ("ALJ") on July 11, 2007, for a decision on or before October 18, 2007. The ALJ convened a hearing on this matter on December 13, 2007, to receive evidence and public comments. No member of the public appeared at the hearing in opposition to the proposed project. See, Transcript of December 13, 2007 hearing.

On January 2, 2008, the ALJ issued a Recommended Decision approving the Certificate along with the proposed financing arrangements, including a $16,131,000 loan from the SRF. The Recommended Decision became a final order of the Commission ("Order") on January 22, 2008. The Order directed the District to seek Commission approval of any change in the project scope, plans or financing that would affect the approved rates.

On June 26, 2008, the District filed a Petition to Reopen this matter, requesting that the Commission approve additional borrowing of $1,930,794, and a further rate increase to provide revenue to service the increased loan. The District stated that project bids substantially exceeded the estimated cost. The District off-set a portion of the higher project construction cost by reducing the scope of the project, but expects that the actual cost of the project will still exceed the approved estimated cost by $1,930,794. The off-set primarily consisted of rejecting Contract 3, an additive alternative to replace the Big Chimney and Coopers Creek Pump Stations. The District expects to secure an additional SRF loan at 0% interest to cover the higher estimated cost and plans to pay for the additional borrowing by an overall average rate increase of 3.7%, generating an average bill increase of $1.52.

On July 11, 2008, the District amended the Petition in order to make minor corrections and requested expedited treatment on less than thirty days notice because the successful bid will expire on August 13, 2008, and the contractor has declined to substantially extend it.

The Commission issued an order directing the District to publish notice of its Petition in a newspaper of general circulation in Kanawha County. The notice advised the public to file any protest within ten days of publication. See, July 16, 2008 Commission Order. The District published the prescribed notice on July 18, 2008 in The Charleston Gazette, and filed an affidavit of Publication on July 25, 2008. See, Affidavit of Publication. No one has filed a protest to the District's proposals. See, Case file generally.

Commission Staff ("Staff") filed a memorandum on July 21, 2008 recommending that the Commission approve the District's proposed changes to the scope of the project along with the proposed additional financing and 3.7% rate increase.

DISCUSSION

The District properly sought a reopening of this matter because it has proposed a change in project scope along with additional financing for the project. The Commission finds that the bid overruns justify reducing the scope of this project and approving the additional financing in the form of a SRF loan to meet the amount of the lowest bid. The increased project cost also justifies the proposed rate increase. The Commission notes that no protests were filed in response to the public notice published by the District. Therefore, the Commission will grant the requested relief requested including approval of the reduced scope, additional financing and rate increase set forth in Attachment A.

FINDINGS OF FACT

1. The Commission granted a Certificate for the District's proposed project along with the proposed financing arrangements and directed the District to seek Commission approval of any

change in the scope, plans or financing of the project that would affect approved rates. See, Recommended Decision (Issued January 2, 2008, Final January 22, 2008).

2. The District requested that the Commission reopen this matter to approve a reduced project scope, additional borrowing of $1,930,794, and a rate increase to provide additional revenue to service the loan. See, Petition to Reopen and Amended Petition to Reopen.

3. The Commission directed the District to publish notice of its Amended Petition advising the public of the request and directing interested parties to file any protest within ten days of publication. See, July 16, 2008 Commission Order.

4. Staff recommended that the Commission approve the reduced scope of the project, the financing described in the Amended Petition, and a 3.7% rate increase. See, July 21, 2008 Staff memorandum.

5. The District published proper public notice of its Amended Petition. See, July 25, 2008 Affidavit of Publication.

6. No one has filed a protest of the Amended Petition with the Commission. See, Case file generally.

CONCLUSIONS OF LAW

1. It is reasonable to approve the reduced project scope and increased project borrowing because competitive bids significantly exceeded the original estimated cost.

2. The increased rates and tariffs set forth in Attachment A are reasonable and justified by increased costs to the District.

ORDER

IT IS THEREFORE ORDERED the proposed changes to the project scope in this matter as described in the District's July 11, 2008 Amended Petition to Reopen are approved.

IT IS FURTHER ORDERED that the revised financing package for the project is approved including:

a) An SRF loan on behalf of the West Virginia Water Development Authority ("WDA") up to the amount of $18,061,117.
b) A West Virginia Infrastructure and Jobs Development Council grant on behalf of the WDA in the amount of $1,183,677.
c) A Kanawha County Commission grant in the amount of $350,000.
d) The District's own equity contribution in the amount of $165,000.

IT IS FURTHER ORDERED that the Commission approves a 3.7% rate increase (representing an average monthly increase of $1.52) for all bills rendered after entry of this Order as the District's final rates. These changes appear in the tariff sheets attached as Attachment A.

IT IS FURTHER ORDERED that within thirty days of the date of this Order, the District shall file an original and six copies of a revised tariff setting forth these approved final rates and charges.

IT IS FURTHER ORDERED that if there are further changes in the project's plans, scope, financing or project costs, resulting in a modification of rates, the District must seek the Commission's approval of those changes.

IT IS FURTHER ORDERED that if there is a change in the project cost that does not affect rates, the District need not petition to reopen this case for further Commission approval. Instead, the District must file an affidavit from its certified public accountant verifying that rates are not affected.

IT IS FURTHER ORDERED that on entry of this Order, this case shall be removed from the Commission's docket of open cases.

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

A True Copy, Teste: Sandra Squire

Sandra Squire
Executive Secretary

MJM/lcw
071024cb.wpd

ATTACHMENT A

ELK VALLEY PUBLIC SERVICE DISTRICT
APPROVED TARIFF
CASE NO. 07-1024-PSD-CN

SCHEDULE I

APPLICABILITY

Applicable within entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service and sale for resale sewer service.

(I,C) RATES (Customers with metered water supply)

Service Charge: $17.38 per month
Usage charge: $ 5.67 per thousand gallons water usage

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

Equivalent of 4,500 gallons of water usage - $42.90 per month.

(C) MINIMUM CHARGE

No bill will be rendered for less than $17.38 per month, which is the equivalent of the monthly service charge.

(I) RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility up to a maximum of $25.00 will be imposed upon a customer whose check for payment of charges is returned by the bank due to insufficient funds.

(C) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for nonpayment of sewer bills, in conjunction with a water service termination agreement with West-Virginia American Water Company, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.

TOWN OF CLENDENIN PUBLIC UTILITY EXCISE TAX

The municipality listed below having imposed a public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipality, said tax shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

Public Service Commission
Of West Virginia
Charleston

The sewer utility is required to collect the utility tax pursuant to W.Va. Code §8-13-5A.

Municipality	Local Tax Rate
Town of Clendenin	2%

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent 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.

(C) TAP FEE

The following charges are to be made whenever the utility installs a new tap to serve an applicant:

A tap fee of $250.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This preconstruction 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 $250.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

(I,C) LEAK ADJUSTMENT

$0.77 per thousand gallons of water is to be used when a bill reflects unusual water consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SCHEDULE II

(C) SURFACE OR GROUNDWATER SURCHARGE

APPLICABILITY

Wherever the utility has discovered that a customer's roof drain, downspout, storm sewer or other similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action within thirty days of receipt of a demand by the utility 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 x R x .0006233 x 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

C = $5.67 The District's approved rate per thousand gallons of metered water usage.

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

The utility 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 other surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty 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 and regulations of the Public Service Commission.

SCHEDULE III

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:

$$Ci = VoVi + BoBi + SoSi$$

Ci = charge to unusual users per year

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

Vi = volume of wastewater from unusual users in gallons per year

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

Bi = weight of BOD from unusual users in pounds per year

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

Si = 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 Elk Valley Public Service District, should not be introduced into the sewer system need not be handled by it. The results of this 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 Elk Valley Public Service District 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 Elk Valley 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.

SCHEDULE IV

Where the amount of sanitary sewage discharged into the waste treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant's water meter or meters, and the plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Elk Valley Public Service District a sewer charge calculated at fifty gallons of water per each employee at the plant each working day.

(I) Indicates Increase
(C) Indicates Change

West Virginia Infrastructure & Jobs Development Council

Public Members:
Kenneth Lowe, Jr.
Shepherdstown
Dwight Calhoun
Petersburg
Tim Stranko
Morgantown
Dave McComas
Prichard

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Jefferson E. Brady, PE
Executive Director

Jefferson.Brady@verizon.net

January 10, 2007

Tim Chapman, General Manager
Elk Valley Public Service District
100 Bream Drive
Elkview, West Virginia 25071

Re: Elk Valley Public Service District
Sewer Project 2002S-691a

Dear Mr. Chapman:

The West Virginia Infrastructure and Jobs Development Council (the "Council") has reviewed the Elk Valley Public Service District's (the "District") revised preliminary application to upgrade the wastewater treatment plant, upgrade and replace the pump station (the "Project").

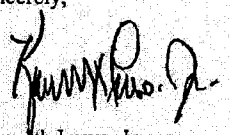
Based on the findings of the Sewer Technical Review Committee, the Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The District should carefully review the enclosed comments of the Sewer Technical Review Committee as the District may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the revised preliminary application, the Council determined that the District should utilize a $350,000 Kanawha County Commission grant, a $165,000 Elk Valley Public Service District local share, and pursue a $16,130,323 Clean Water State Revolving Fund loan to fund this $17,829,000 project. Please contact the West Virginia Department of Environmental Protection office at 926-0495 for specific information on the steps the District needs to follow to apply for these funds. **Please note that this letter <u>does not</u> constitute funding approval from this agency.**

The Council also determined that the District may be eligible for a $1,183,677 Infrastructure Fund grant pending the District's readiness to proceed and availability of funds. **This letter is not a commitment letter of Infrastructure Funds.** The Project will be placed on the Infrastructure Council's pending list of projects. The Council is aware that the Water Development Authority has offered the District a Grant Anticipation Note to allow the Project to move forward and believes that course of action is appropriate.

If you have any questions regarding this matter, please contact Jeff Brady at 558-4607.

Sincerely,



Kenneth Lowe, Jr.

Enclosure
cc: Mike Johnson, P.E., DEP (w/o enclosure)
Kanawha County Commission
Region III Planning & Development Council
Ghosh Engineers, Inc.

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

CROSS-RECEIPT FOR BOND AND BOND PROCEEDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of itself and the West Virginia Department of Environmental Protection (the "DEP"), and the undersigned Chairman of the Elk Valley Public Service District (the "District"), for and on behalf of the District, hereby certify as follows:

1. On the 12th day of August, 2008, at Charleston, West Virginia, the Authority received the Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund) (the "Series 2008 Bond"), numbered AR-1, in the principal amount of $18,061,117, dated as of the date hereof. The Series 2008 Bond represents the entire above-captioned bond issue.

2. On the 12th day of August, 2008, at Charleston, West Virginia, the Authority received the Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) (the "Series 2008 Note"), numbered BR-1, in the principal amount of $1,183,677, dated as of the date hereof. The Series 2008 Note represents the entire above-captioned note issue.

3. At the time of such receipt, the Series 2008 Bond and the Series 2008 Note had been executed and sealed by the designated officials of the District.

4. The District has received and hereby acknowledges receipt from the Authority of the sum of $903,056.00, being a portion of the principal amount of the Series 2008 Bond. The balance of the principal amount of the Series 2008 Bond will be advanced to the District by the Authority and the DEP as the construction of the Project progresses.

5. The principal amount of the Series 2008 Note will be advanced to the District, if necessary, by the Authority as the construction of the Project progresses.

WITNESS my signature on this 12th day of August, 2008.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: Barbara B Meadows
Authorized Representative

ELK VALLEY PUBLIC SERVICE DISTRICT

By:
Chairman

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE AND DELIVER BOND AND NOTE

August 12, 2008

United Bank, Inc.
500 Virginia Street, East
Charleston, WV 25301
Attention: Trust Department

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $18,061,117 Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund), in the form of one bond, numbered AR-1, dated the date hereof (the "Bond"), and the $1,183,677 Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), in the form of one note, numbered BR-1, dated the date hereof (the "Note"), both issued by the Elk Valley Public Service District (the "Issuer"), authorized to be issued under and pursuant to the Bond Resolution adopted on July 29, 2008, as amended by a Supplemental Resolution adopted by the Issuer on July 29, 2008 (collectively, the "Resolution"). Other defined terms herein shall have the meanings respectively given such terms in the Resolution.

You have received all the documents required to be filed with you pursuant to the Resolution.

You are hereby requested and authorized to authenticate, register and deliver the Bond on behalf of the Issuer to the West Virginia Water Development Authority, acting on behalf of the West Virginia Department of Environmental Protection, as the Purchaser of the Bond, upon payment to the Issuer of $903,056.00, being the first advance of the principal of the Bond, and the Note on behalf of the Issuer to the West Virginia Water Development Authority, as the Purchaser of the Note.

ELK VALLEY PUBLIC SERVICE DISTRICT

By: _____
Chairman

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $18,061,117

KNOW ALL MEN BY THESE PRESENTS: That ELK VALLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Kanawha County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns the sum of EIGHTEEN MILLION SIXTY ONE THOUSAND ONE HUNDRED SEVENTEEN DOLLARS ($18,061,117), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter described Bond Legislation) on this Bond shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, as set forth on EXHIBIT B attached hereto.

SPECIMEN

This Bond shall bear no 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 Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Department of Environmental Protection (the "DEP"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and among the Issuer, the Authority and the DEP, dated August 12, 2008.

SPECIMEN

This Bond is issued (i) to pay a portion of the costs of acquiring, constructing and equipping certain improvements and extensions to the existing public sewerage facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing public sewerage facilities of the Issuer, the improvements and extensions constructed by the Project and any further improvements or extensions 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 and Chapter 22C, Article 2 of the West Virginia Code of 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the

the Issuer on July 29, 2008, and a Supplemental Resolution duly adopted by the Issuer on July 29, 2008 (collectively, 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 security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON PARITY AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) $5,227,400 SEWERAGE SYSTEM REVENUE BOND, SERIES 1987A, AND (2) $1,388,390 SEWERAGE SYSTEM REVENUE BOND, SERIES 1990A (COLLECTIVELY, THE "PARITY PRIOR BONDS"). THIS BOND IS SENIOR AND PRIOR AS TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (3) $1,282,163 SEWERAGE SYSTEM REVENUE BOND, SERIES 1987B, AND (4) $62,701 SEWERAGE SYSTEM REVENUE BOND, SERIES 1990B (COLLECTIVELY, THE "SUBORDINATE 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 a parity with the pledge of Net Revenues in favor of the holder of the Parity Prior Bonds, and from moneys in the reserve account created under the Bond Legislation for this Bond (the "Series 2008 Bond Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds that may be issued pursuant to the Act and 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 hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2008 Bond Reserve Account and unexpended proceeds of this Bond. 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 this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Parity Prior Bonds; provided however, that so long as there exists in the Series 2008 Bond Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Parity Prior Bonds, an amount at least equal to the requirement therefore, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owner of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered

SPECIMEN

owner of this Bond 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 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.

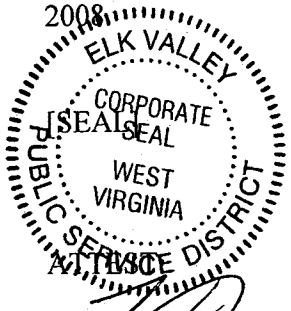
SPECIMEN

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 payment of the costs of constructing the Project and costs of issuance hereof 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 at the issuance of this Bond do exist, 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 Net 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, ELK VALLEY 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 August 12, 2008.



[SEAL]

ATTEST:

SPECIMEN

Chairman

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is the Series 2008 Bond 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: August 12, 2008.

SPECIMEN

UNITED BANK, INC., as Registrar

By: _____
Vice President

(Form of)

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$903,056.00	8/12/08	(6)	$	
(2)	$		(7)	$	
(3)	$		(8)	$	
(4)	$		(9)	$	
(5)	$		(10)	$	

SPECIMEN

TOTAL $_____

EXHIBIT B

DEBT SERVICE SCHEDULE

SPECIMEN

$18,061,117

Elk Valley PSD (West Virginia)

0% Interest Rate; 0.5% Administrative Fee

Closing Date: August 12, 2008

Net Debt Service Schedule

Part 1 of 3

Date	Principal	Coupon	Total P+I	Expenses	Net New D/S
09/01/2008	-	-	-	-	-
12/01/2008	-	-	-	-	-
03/01/2009	-	-	-	-	-
06/01/2009	-	-	-	-	-
09/01/2009	-	-	-	-	-
12/01/2009	-	-	-	-	-
03/01/2010	-	-	-	-	-
06/01/2010	-	-	-	-	-
09/01/2010	-	-	-	-	-
12/01/2010	-	-	-	-	-
03/01/2011	-	-	-	-	-
06/01/2011	-	-	-	-	-
09/01/2011	150,510.00	-	150,510.00	22,576.40	173,086.40
12/01/2011	150,510.00	-	150,510.00	22,388.26	172,898.26
03/01/2012	150,510.00	-	150,510.00	22,200.13	172,710.13
06/01/2012	150,510.00	-	150,510.00	22,011.99	172,521.99
09/01/2012	150,510.00	-	150,510.00	21,823.85	172,333.85
12/01/2012	150,510.00	-	150,510.00	21,635.71	172,145.71
03/01/2013	150,510.00	-	150,510.00	21,447.58	171,957.58
06/01/2013	150,510.00	-	150,510.00	21,259.44	171,769.44
09/01/2013	150,510.00	-	150,510.00	21,071.30	171,581.30
12/01/2013	150,510.00	-	150,510.00	20,883.16	171,393.16
03/01/2014	150,510.00	-	150,510.00	20,695.03	171,205.03
06/01/2014	150,510.00	-	150,510.00	20,506.89	171,016.89
09/01/2014	150,510.00	-	150,510.00	20,318.75	170,828.75
12/01/2014	150,510.00	-	150,510.00	20,130.61	170,640.61
03/01/2015	150,510.00	-	150,510.00	19,942.48	170,452.48
06/01/2015	150,510.00	-	150,510.00	19,754.34	170,264.34
09/01/2015	150,510.00	-	150,510.00	19,566.20	170,076.20
12/01/2015	150,510.00	-	150,510.00	19,378.06	169,888.06
03/01/2016	150,510.00	-	150,510.00	19,189.93	169,699.93
06/01/2016	150,510.00	-	150,510.00	19,001.79	169,511.79
09/01/2016	150,510.00	-	150,510.00	18,813.65	169,323.65
12/01/2016	150,510.00	-	150,510.00	18,625.51	169,135.51
03/01/2017	150,510.00	-	150,510.00	18,437.38	168,947.38
06/01/2017	150,510.00	-	150,510.00	18,249.24	168,759.24
09/01/2017	150,510.00	-	150,510.00	18,061.10	168,571.10
12/01/2017	150,510.00	-	150,510.00	17,872.96	168,382.96
03/01/2018	150,510.00	-	150,510.00	17,684.83	168,194.83
06/01/2018	150,510.00	-	150,510.00	17,496.69	168,006.69
09/01/2018	150,510.00	-	150,510.00	17,308.55	167,818.55
12/01/2018	150,510.00	-	150,510.00	17,120.41	167,630.41
03/01/2019	150,510.00	-	150,510.00	16,932.28	167,442.28
06/01/2019	150,510.00	-	150,510.00	16,744.14	167,254.14

SPECIMEN

$18,061,117

Elk Valley PSD (West Virginia)

0% Interest Rate; 0.5% Administrative Fee

Closing Date: August 12, 2008

Net Debt Service Schedule

Date	Principal	Coupon	Total P+I	Expenses	Net New D/S
09/01/2019	150,510.00	-	150,510.00	16,556.00	167,066.00
12/01/2019	150,510.00	-	150,510.00	16,367.86	166,877.86
03/01/2020	150,510.00	-	150,510.00	16,179.73	166,689.73
06/01/2020	150,510.00	-	150,510.00	15,991.59	166,501.59
09/01/2020	150,510.00	-	150,510.00	15,803.45	166,313.45
12/01/2020	150,509.00	-	150,509.00	15,615.31	166,124.31
03/01/2021	150,509.00	-	150,509.00	15,427.18	165,936.18
06/01/2021	150,509.00	-	150,509.00	15,239.04	165,748.04
09/01/2021	150,509.00	-	150,509.00	15,050.90	165,559.90
12/01/2021	150,509.00	-	150,509.00	14,862.77	165,371.77
03/01/2022	150,509.00	-	150,509.00	14,674.63	165,183.63
06/01/2022	150,509.00	-	150,509.00	14,486.50	164,995.50
09/01/2022	150,509.00	-	150,509.00	14,298.36	164,807.36
12/01/2022	150,509.00	-	150,509.00	14,110.22	164,619.22
03/01/2023	150,509.00	-	150,509.00	13,922.09	164,431.09
06/01/2023	150,509.00	-	150,509.00	13,733.95	164,242.95
09/01/2023	150,509.00	-	150,509.00	13,545.81	164,054.81
12/01/2023	150,509.00	-	150,509.00	13,357.68	163,866.68
03/01/2024	150,509.00	-	150,509.00	13,169.54	163,678.54
06/01/2024	150,509.00	-	150,509.00	12,981.41	163,490.41
09/01/2024	150,509.00	-	150,509.00	12,793.27	163,302.27
12/01/2024	150,509.00	-	150,509.00	12,605.13	163,114.13
03/01/2025	150,509.00	-	150,509.00	12,417.00	162,926.00
06/01/2025	150,509.00	-	150,509.00	12,228.86	162,737.86
09/01/2025	150,509.00	-	150,509.00	12,040.72	162,549.72
12/01/2025	150,509.00	-	150,509.00	11,852.59	162,361.59
03/01/2026	150,509.00	-	150,509.00	11,664.45	162,173.45
06/01/2026	150,509.00	-	150,509.00	11,476.32	161,985.32
09/01/2026	150,509.00	-	150,509.00	11,288.18	161,797.18
12/01/2026	150,509.00	-	150,509.00	11,100.04	161,609.04
03/01/2027	150,509.00	-	150,509.00	10,911.91	161,420.91
06/01/2027	150,509.00	-	150,509.00	10,723.77	161,232.77
09/01/2027	150,509.00	-	150,509.00	10,535.63	161,044.63
12/01/2027	150,509.00	-	150,509.00	10,347.50	160,856.50
03/01/2028	150,509.00	-	150,509.00	10,159.36	160,668.36
06/01/2028	150,509.00	-	150,509.00	9,971.23	160,480.23
09/01/2028	150,509.00	-	150,509.00	9,783.09	160,292.09
12/01/2028	150,509.00	-	150,509.00	9,594.95	160,103.95
03/01/2029	150,509.00	-	150,509.00	9,406.82	159,915.82
06/01/2029	150,509.00	-	150,509.00	9,218.68	159,727.68
09/01/2029	150,509.00	-	150,509.00	9,030.54	159,539.54
12/01/2029	150,509.00	-	150,509.00	8,842.41	159,351.41
03/01/2030	150,509.00	-	150,509.00	8,654.27	159,163.27
06/01/2030	150,509.00	-	150,509.00	8,466.14	158,975.14

SPECIMEN

$18,061,117

Elk Valley PSD (West Virginia)

0% Interest Rate; 0.5% Administrative Fee

Closing Date: August 12, 2008

Net Debt Service Schedule

Date	Principal	Coupon	Total P+I	Expenses	Net New D/S
09/01/2030	150,509.00	-	150,509.00	8,278.00	158,787.00
12/01/2030	150,509.00	-	150,509.00	8,089.86	158,598.86
03/01/2031	150,509.00	-	150,509.00	7,901.73	158,410.73
06/01/2031	150,509.00	-	150,509.00	7,713.59	158,222.59
09/01/2031	150,509.00	-	150,509.00	7,525.45	158,034.45
12/01/2031	150,509.00	-	150,509.00	7,337.32	157,846.32
03/01/2032	150,509.00	-	150,509.00	7,149.18	157,658.18
06/01/2032	150,509.00	-	150,509.00	6,961.05	157,470.05
09/01/2032	150,509.00	-	150,509.00	6,772.91	157,281.91
12/01/2032	150,509.00	-	150,509.00	6,584.77	157,093.77
03/01/2033	150,509.00	-	150,509.00	6,396.64	156,905.64
06/01/2033	150,509.00	-	150,509.00	6,208.50	156,717.50
09/01/2033	150,509.00	-	150,509.00	6,020.36	156,529.36
12/01/2033	150,509.00	-	150,509.00	5,832.23	156,341.23
03/01/2034	150,509.00	-	150,509.00	5,644.09	156,153.09
06/01/2034	150,509.00	-	150,509.00	5,455.96	155,964.96
09/01/2034	150,509.00	-	150,509.00	5,267.82	155,776.82
12/01/2034	150,509.00	-	150,509.00	5,079.68	155,588.68
03/01/2035	150,509.00	-	150,509.00	4,891.55	155,400.55
06/01/2035	150,509.00	-	150,509.00	4,703.41	155,212.41
09/01/2035	150,509.00	-	150,509.00	4,515.27	155,024.27
12/01/2035	150,509.00	-	150,509.00	4,327.14	154,836.14
03/01/2036	150,509.00	-	150,509.00	4,139.00	154,648.00
06/01/2036	150,509.00	-	150,509.00	3,950.87	154,459.87
09/01/2036	150,509.00	-	150,509.00	3,762.73	154,271.73
12/01/2036	150,509.00	-	150,509.00	3,574.59	154,083.59
03/01/2037	150,509.00	-	150,509.00	3,386.46	153,895.46
06/01/2037	150,509.00	-	150,509.00	3,198.32	153,707.32
09/01/2037	150,509.00	-	150,509.00	3,010.18	153,519.18
12/01/2037	150,509.00	-	150,509.00	2,822.05	153,331.05
03/01/2038	150,509.00	-	150,509.00	2,633.91	153,142.91
06/01/2038	150,509.00	-	150,509.00	2,445.78	152,954.78
09/01/2038	150,509.00	-	150,509.00	2,257.64	152,766.64
12/01/2038	150,509.00	-	150,509.00	2,069.50	152,578.50
03/01/2039	150,509.00	-	150,509.00	1,881.37	152,390.37
06/01/2039	150,509.00	-	150,509.00	1,693.23	152,202.23
09/01/2039	150,509.00	-	150,509.00	1,505.09	152,014.09
12/01/2039	150,509.00	-	150,509.00	1,316.96	151,825.96
03/01/2040	150,509.00	-	150,509.00	1,128.82	151,637.82
06/01/2040	150,509.00	-	150,509.00	940.69	151,449.69
09/01/2040	150,509.00	-	150,509.00	752.55	151,261.55
12/01/2040	150,509.00	-	150,509.00	564.41	151,073.41
03/01/2041	150,509.00	-	150,509.00	376.28	150,885.28
06/01/2041	150,509.00	-	150,509.00	188.14	150,697.14
Total	**$18,061,117.00**	-	**$18,061,117.00**	**$1,365,870.60**	**$19,426,987.60**

SPECIMEN

(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.

SPECIMEN

Dated: _____, 20__.

_____

In the presence of:

_____

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$1,061,117	August 12, 2008

SPECIMEN

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

By: _____
Vice President

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B
(WEST VIRGINIA WDA PROGRAM)

No. BR-1 $1,183,677

INTEREST RATE	MATURITY DATE	NOTE DATE
3.00%	August 12, 2010	August 12, 2008

REGISTERED OWNER: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

PRINCIPAL AMOUNT: ONE MILLION ONE HUNDRED EIGHTY-THREE THOUSAND SIX HUNDRED SEVENTY-SEVEN DOLLARS

SPECIMEN

KNOW ALL MEN BY THESE PRESENTS: That on the 12th day of August, 2008, the ELK VALLEY PUBLIC SERVICE DISTRICT, a public corporation organized and existing under the laws of the State of West Virginia (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefore, as hereinafter set forth, to the Registered Owner specified above, or registered assigns (the "Registered Owner"), on the Maturity Date specified above, the Principal Amount specified above and solely from such special funds also to pay interest on said Principal Amount from the Note Date specified above, at the Interest Rate per annum specified above, at the Maturity Date specified above or until the date this Note is called for prior redemption and payment on such date is provided for. Capitalized terms used and not defined herein shall have the same meanings set forth in the hereinafter described Resolution.

SPECIMEN

Interest accruing on this Note on and prior to the Maturity Date hereof shall be payable by check or draft mailed by the West Virginia Municipal Bond Commission, Charleston, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof at the address of such Registered Owner as it appears on the registration books of the District maintained by United Bank, Inc., Charleston, West Virginia, as registrar (in such capacity, the "Registrar"), and shall be paid when due upon presentation and surrender of this Note.

SPECIMEN

This Note, in the aggregate principal amount of $1,183,677, is designated "Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)" (the "Note"). The proceeds are to be used to (i) temporarily finance the costs of design, acquisition and construction of certain additions, betterments and improvements to the sewer system of the Issuer; and (ii) pay costs of issuance hereof and related costs. The Note 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 and Chapter 22C, Article 1 of the West Virginia Code of 1931, as amended (the "Act"), and a resolution duly adopted by the public service board of the

Issuer on July 29, 2008, as supplemented by a Supplemental Resolution duly adopted by the board on July 29, 2008 (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. Reference is hereby made to the Resolution, as the same may be amended and supplemented from time to time, for a description of the rights, limitations of rights, obligations, duties and immunities of the Issuer, the Registrar, the Paying Agent and the Registered Owner of the Note. An executed counterparts or certified copy of the Resolution is on file at the office of the District.

The Note is subject to extraordinary and optional redemption prior to the Maturity Date stated above, as provided in the Resolution and as set forth below:

Extraordinary Redemption

If there should occur any damage to or destruction of the System or any condemnation of title to or the use of the System, the Note shall be subject to redemption at any time at the redemption price of 100% of the principal amount thereof plus accrued interest to the Redemption Date from any condemnation awards or insurance proceeds that are not used to repair, rebuild or rearrange the System.

SPECIMEN

Optional Redemption

The Note is subject to redemption at the option of the District, prior to maturity, in whole or in part at any time from amounts deposited with the Bond Commission by the District or from other funds available therefore at a redemption price equal to the principal amount thereof, plus accrued interest to the date fixed for redemption.

THIS NOTE HAS NO LIEN ON THE GROSS OR NET REVENUES OF THE SYSTEM.

The Note and the interest thereon are payable only from and are secured by a first lien on the proceeds of a grant or grants made available to the Issuer subsequent to the issuance of the Note to permanently finance the costs of design, acquisition and construction of the Project and Surplus Revenues. The monies from this source shall be deposited into the Note Fund established under the Resolution. This Note does not constitute an indebtedness of the Issuer within any constitutional or statutory provision or limitation, nor shall the Issuer be obligated to pay the same or the interest hereon except as set forth in the Resolution. The Issuer has entered into certain covenants with the Registered Owner, for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of the Note are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

All monies received from the sale of the Note shall be applied solely to pay all costs of the Project and to pay all costs of issuance of the Note, and there shall be, and hereby is, created and granted a lien upon such monies, until so applied, in favor of the Registered Owner.

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 Note have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Note, together with all other obligations of said Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia.

This Note, under the provisions of the Act is and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only upon the surrender hereof at the office of the Registrar and otherwise as provided by the Ordinance.

This Note is, under the Act, exempt from all taxation by the State of West Virginia or any county, municipality or court, commission, political subdivision or agency thereof.

SPECIMEN

This Note shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon shall have been signed by the Registrar.

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

IN WITNESS WHEREOF, ELK VALLEY PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairman and Secretary, and its corporate seal to be imprinted hereon and affixed hereto, and has caused this Note to be dated as of the Note Date specified above.

[SEAL]

ELK VALLEY PUBLIC SERVICE DISTRICT

SPECIMEN

By: _____
Chairman

ATTEST:

_____
Secretary

SCHEDULE Y

DEBT SERVICE SCHEDULE

Elk Valley Public Service District

$1,183,000

SPECIMEN

Closed 8/12/08

Due 8/12/10

3% interest on amounts drawn

(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.

SPECIMEN

Dated: _____, 20__.

_____

In the presence of:

_____

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is the Series 2008 Note 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: August 12, 2008 SPECIMEN

UNITED BANK, INC., as Registrar

By: _____
Vice President

NOTE REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B
(WEST VIRGINIA WDA PROGRAM)

Note Number	Principal Amount	Date of Note
No. BR-1	$1,128,607 SPECIMEN	August 12, 2008

NO WRITING ON THIS NOTE REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.

By: _____
Vice President

LAW OFFICES
GOODWIN & GOODWIN, LLP
300 SUMMERS STREET, SUITE 1500
CHARLESTON, WEST VIRGINIA 25301-1678

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RIPLEY, WEST VIRGINIA 25271
(304) 372-2651

August 12, 2008

Elk Valley Public Service District
Elk Valley, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Elk Valley Public Service District, Sewer Revenue Bond,
Series 2008 A (State Revolving Fund) and
Elk Valley Public Service District, Sewer Grant Anticipation Note,
Series 2008 B (West Virginia WDA Program)

Ladies and Gentlemen:

We have served as bond counsel to the Elk Valley Public Service District (the "Issuer") in connection with the issuance of its Sewer Revenue Bond, Series 2008 A (State Revolving Fund) (the "Bond"), and Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) (the "Note"), both dated the date hereof.

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a bond purchase agreement for the Bond, dated August 12, 2008, including all schedules and exhibits attached thereto (the "Bond Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), (ii) the Bond to be purchased by the Authority in accordance with the provisions of the Bond Loan Agreement, (iii) a loan agreement for the Note, dated August 12, 2008, including all schedules and exhibits attached thereto (the "Note Loan Agreement"), by

and between the Issuer and the Authority, and (iv) the Note to be purchased by the Authority in accordance with the provisions of the Note Loan Agreement.

The Bond is issued in the principal amount of $18,061,117, in the form of one bond, registered to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2011, all as set forth in the Schedule Y attached to the Bond Loan Agreement and incorporated in and made a part of the Bond. The Bond is subject to the SRF Administrative Fee equal to 0.5% of the principal amount of the Bond as set forth in the Schedule Y attached to the Bond Loan Agreement.

The Note is issued in the principal amount of $1,183,677, in the form of one note, registered to the Authority, bearing interest at the rate of three percent (3%) per annum, with principal and interest payable on August 12, 2010, all as set forth in the Schedule Y attached to the Note Loan Agreement and incorporated in and made a part of the Note.

The Bond and Note 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, Chapter 22C, Article 1 and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying a portion of the costs of constructing certain additions, betterments and improvements to the existing public sewerage system of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on July 29, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on July 29, 2008 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bond and Note are authorized and issued, and the Bond and Note Loan Agreements are entered into. The Bond and Note are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Bond and Note Loan Agreements. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Bond and Note Loan Agreements when used herein.

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 construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bond and Note, all under the Act and other applicable provisions of law.

2. The Bond and Note Loan Agreements have been duly authorized by and executed on behalf of the Issuer and are valid and binding special obligations of the Issuer, enforceable in accordance with the terms thereof.

3. The Bond Loan Agreement inures to the benefit of the Authority and the DEP and cannot be amended so as to affect adversely the rights of the Authority and the DEP or diminish the obligations of the Issuer, without the written consent of the Authority and the DEP.

4. The Note Loan Agreement inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Issuer, without the written consent of the Authority.

5. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bond and Note. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Bond and Note Loan Agreements.

6. The Bond has been duly authorized, issued, executed and delivered by the Issuer to the Authority and is a valid, legally enforceable and binding special obligation of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and a 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 Parity Prior Bonds and senior and prior with respect to liens, pledge and source of and security for payment with the Subordinate Prior Bonds, all in accordance with the terms of the Bond and the Resolution.

7. The Note has been duly authorized, issued, executed and delivered by the Issuer to the Authority and is a valid, legally enforceable and binding special obligation of the Issuer, payable from grant proceeds received by the Issuer in the amount of $1,183,677 and from the Surplus Revenues of the System, junior and subordinate with respect to liens, pledge and source of and security for payment with the Bond and the Parity Prior Bonds and the Subordinate Prior Bonds, all in accordance with the terms of the Note and the Resolution.

8. Under the Act, the Bond and Note and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

9. The Bond and Note have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bond and Note.

No opinion is given herein as to the effect upon the enforceability of the Bond and Note 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 Note numbered BR-1 and in our opinion, the form of said Bond and Note and their execution and authentication are regular and proper.

Respectfully submitted,

Goodwin + Goodwin, LLP

GOODWIN & GOODWIN, LLP

LAW OFFICES
GOODWIN & GOODWIN, LLP
300 SUMMERS STREET, SUITE 1500
CHARLESTON, WEST VIRGINIA 25301-1678

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(304) 372-2651

August 12, 2008

Elk Valley Public Service District
Elkview, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Elk Valley Public Service District
Sewer Revenue Bond, Series 2008 A (State Revolving Fund) and
Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)

Ladies and Gentlemen:

We are counsel to Elk Valley Public Service District (the "Issuer"). As such counsel, we have examined copies of the approving opinion of Goodwin & Goodwin, LLP, as bond counsel, relating to the above-captioned bond and note of the Issuer (the "Bond and Note"), a Bond Purchase Agreement for the Bond, dated July 30, 2008, including all schedules and exhibits attached thereto (the "Bond Loan Agreement"), by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), a Note Loan Agreement for the Note, dated August 12, 2008, including all schedules and exhibits attached thereto (the "Note Loan Agreement"), by and between the Issuer and the Authority, a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on July 29, 2008, as supplemented by a Supplemental Resolution duly adopted on July 29, 2008 (collectively, the "Resolution"), orders of The County Commission of Kanawha County relating to the Issuer and the appointment of members of the Board, and other documents relating to the

Bond and Note and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond and Note Loan Agreements and the Resolution when used herein.

We are of the opinion that:

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 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 Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Bond and Note Loan Agreements have been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority and the DEP, constitutes a valid and binding agreements of the Issuer, enforceable in accordance with their terms.

4. The Resolution has been duly adopted by the Board and is in full force and effect.

5. The execution and delivery of the Bond and Note and the Bond and Note Loan Agreements and the consummation of the transactions contemplated by the Bond and Note, the Bond and Note Loan Agreements 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 resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject and of which we are aware.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer and the issuance of the Bond and Note.

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 Bond and Note Loan Agreements,

the Bond and Note and the Resolution, the acquisition and construction of the Project, the operation of the System, the validity of the Bond and Note, the collection of the Gross Revenues, the pledge of the Net Revenues for the payment of the Bond or the pledge of grant proceeds received by the Issuer in the amount of $1,183,677 and Surplus Revenues derived from the System for the payment of the Note.

8. In reliance upon the Engineer's Certificate of Ghosh Engineers, Inc., all successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon our review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, we are of the opinion that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the Bond and Note Loan Agreements; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

The opinions given herein are all subject to the effect upon enforceability of any document 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.

Our opinion specifically excludes any matters involving the regulatory, tax, securities or public finance activities of the Issuer. This opinion is given for the benefit of those addressed on page 1 hereof, in connection with the Bond and Note, and may not be relied on by them for any other purpose or relied on by any other person, firm or corporation for any purpose whatsoever.

Very truly yours,

Goodwin & Goodwin, LLP

GOODWIN & GOODWIN, LLP

LAW OFFICES
GOODWIN & GOODWIN, LLP
300 SUMMERS STREET, SUITE 1500
CHARLESTON, WEST VIRGINIA 25301-1678

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August 12, 2008

Elk Valley Public Service District
Elkview, West Virginia

West Virginia Department of Environmental Protection
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Final Title Opinion for Elk Valley Public Service District

Ladies and Gentlemen:

We are counsel to Elk Valley Public Service District (the "Issuer") in connection with a proposed project to construct improvements to its existing wastewater treatment plant (the "Project"). We provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Department of Environmental Protection (the "DEP") for the Project. Please be advised of the following:

1. The Issuer is a duly created and validly existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the DEP.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project. In rendering this opinion, we have relied upon the Engineer's Certificate of Ghosh Engineers, Inc., the consulting engineers for the Project.

3. We have investigated and ascertained the location of, and are familiar with the legal description of, the necessary sites, including easements and/or rights of way,

required for the Project as set forth in the plans for the Project prepared by Ghosh Engineers, the consulting engineers for the Project.

4. No new property, easements or rights of way have to be acquired by the Issuer for the Project; provided, that upon completion of certain improvements described in a lease between the Issuer and Norfolk Southern Railway Company ("NS"), the Issuer will acquire by deed from NS certain land presently leased to the Issuer, and the Issuer will convey a defined tract of land to NS. The Issuer and NS have entered into an agreement to exchange those tracts of land. The Issuer has heretofore acquired legal title or such other estate (such as a leasehold estate and agreement to exchange property) or interest in all of the necessary site components for the Project, including all easements and/or rights of way, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. All easements and rights of way that have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Kanawha County to protect the legal title to and interest of the Issuer.

Very truly yours,

Goodwin & Goodwin, LLP

GOODWIN & GOODWIN, LLP

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. LOAN AGREEMENTS
13. SPECIMEN BONDAND NOTE
14. PROCEEDS
15. CONFLICTS OF INTEREST
16. VERIFICATION OF SCHEDULE
17. PROCUREMENT OF ENGINEERING SERVICES
18. CLEAN WATER ACT
19. COUNTERPARTS

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the Public Service Board of Elk Valley Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund) (the "Bond" or the "Series 2008 Bond") and Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) (the "Note" or the "Series 2008 Note" and, together with the Bond or the Series 2008 Bond, collectively, the "2008 Bond and Note"), dated the date hereof, as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on July 29, 2008, and the Supplemental Resolution duly adopted by

the Issuer on July 29, 2008 (collectively, the "Resolution"), the bond purchase agreement for the Series 2008 Bond by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection (the "DEP"), dated August 12, 2008 (the "Bond Loan Agreement"), and the loan agreement for the Series 2008 Note by and between the Issuer and the Authority, dated August 12, 2008 (the "Note Loan Agreement" and, together with the Bond Loan Agreement, collectively, the "Loan Agreements").

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 authorization, issuance, sale and delivery of the 2008 Bond and Note, the acquisition, construction and equipping of the Project, the operation of the System, the collection or use of the revenues of the System, the pledge and security of the Net Revenues for the Bond and the Parity Prior Bonds, and the pledge and security of the Surplus Revenues and grant proceeds in the amount of $1,183,677 for the Note and the Subordinate Prior Bonds; nor affecting the validity of the 2008 Bond and Note 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 authorization, issuance, sale or delivery of the 2008 Bond and Note, the acquisition, construction and equipping of the Project, the operation of the System, the collection or use of the revenues of the System, the pledge and security of the Net Revenues for the Bond, or the pledge and security of the Surplus Revenues and grant proceeds in the amount of $1,183,677 for the Note.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition, construction and equipping of the Project, the operation of the System, the imposition of rates and charges and the issuance of the 2008 Bond and Note have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited by the Issuer in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids 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 since the approval, execution and delivery of the Loan Agreements. The Issuer has met all conditions set forth in the Loan Agreements and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Series 2008 Bond shall be issued on a parity with the Parity Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects and senior and prior to the Subordinate 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 Parity Prior Bonds and the Prior Resolutions 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 Parity Prior Bonds have been met, (ii) the written consent of the Holder of the Parity Prior Bonds to the issuance of the Series 2008 Bond on parity with the Parity Prior Bonds, and (iii) the written consent of the Holder of the Subordinate Prior Bonds to the issuance of the Series 2008 Bond.

The Series 2008 Note shall be issued with a first lien on grant proceeds received by the Issuer in the amount of $1,183,677 and a lien on Surplus Revenues derived from the System, junior and subordinate to the lien on Net Revenues in favor of the Holders of the Series 2008 Bond, the Parity Prior Bonds and the Subordinate Prior Bonds.

5. SIGNATURES AND DELIVERY: The undersigned Chairman 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 2008 Bond and Note for the Issuer. The seal impressed upon the 2008 Bond and Note and this Certificate is the duly authorized, proper and only seal of the Issuer. As of the date hereof, the undersigned Chairman officially signed the 2008 Bond and Note, upon original issuance of a single Bond and Note, dated the date hereof, by his manual signature; the undersigned Secretary officially caused the seal of the Issuer to be affixed upon the 2008 Bond and Note and attested by his manual signature; the Registrar officially registered, authenticated and delivered the 2008 Bond and Note to a representative of the Authority as the original purchaser of the 2008 Bond and Note under the Loan Agreements.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision and Commission Order of the PSC entered on January 2, 2008 and August 7, 2008, respectively, in Case No. 07-1024-PSD-CN, granting the Issuer a certificate of public convenience and necessity for the Project and approving financing for the acquisition, construction and equipping of the Project and the rates for the System. The time for appeal of the Recommended Decision entered on January 2, 2008, expired prior to the date hereof without any appeal having been filed. Such orders remain in full force and effect.

The Issuer has duly published the required notice with respect to, among other things, the amount of the 2008 Bond and Note to be issued, the interest rate and terms of the 2008 Bond and Note, the Project to be acquired and constructed, the cost of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. RATES: The rates for the System, as approved by the PSC Order, entered August 7, 2008, in Case No. 07-1024-PSD-CN, will become effective upon completion of the Project.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Elk Valley 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 Kanawha County of said State. The governing body of the Issuer is its Board, consisting of three members, whose names and dates of commencement and termination of their current terms are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
James C. Smith	August 15, 2003	August 15, 2009
Doug Stump	July 24, 2008	March 1, 2014
W. Lawrence Wagoner	April 12, 2005	April 30, 2011

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

James C. Smith	-	Chairman
W. Lawrence Wagoner	-	Vice Chairman and Treasurer
Doug Stump	-	Secretary
Tim Chapman	-	Assistant Secretary

The duly appointed and acting attorney for the Issuer is Goodwin & Goodwin, LLP of Charleston, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the acquisition, construction and equipping of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the 2008 Bond and Note.

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 2008 Bond and Note and the acquisition, construction, equipping, operation and financing of the Project or the System 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. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain Workers' Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Loan Agreements. All insurance for the System required by the Resolution and the Loan Agreements are in full force and effect.

12. LOAN AGREEMENTS: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreements are true and correct in all material respects as if made on the date hereof; (ii) the Bond Purchase and Loan Agreements do not contain any untrue statements of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreements, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreements.

13. SPECIMEN BOND AND NOTE: Attached hereto as Exhibit A are specimens of the 2008 Bond and Note which, except as to execution and authentication, is identical in all respects with the 2008 Bond and Note this day delivered to the Authority and being substantially in the form prescribed in the Resolution.

14. PROCEEDS: On the date hereof, the Issuer received $903,056.00 from the Authority and the DEP, being a portion of the principal amount of the Series 2008 Bond. The balance of the principal amount of the 2008 Bond and Note will be advanced to the Issuer from time to time as acquisition, construction and equipping of the Project progresses.

15. 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 2008 Bond and Note, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. 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.

16. VERIFICATION OF SCHEDULE: The final amended Schedule A attached to the Certificate of Consulting Engineer, with the signature of the Chairman and the Consulting Engineer, accurately represents the estimated costs of the acquisition, construction and equipping of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the 2008 Bond and Note.

17. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

18. CLEAN WATER ACT: The Project, as described in the Resolution, complies with Sections 208 and 303(e) of the Clean Water Act.

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

IN WITNESS our signatures and the official corporate seal of Elk Valley Public Service District on this 12th day of August, 2008.

ELK VALLEY PUBLIC SERVICE DISTRICT
CORPORATE SEAL
WEST VIRGINIA
[SEAL]

Signature	Official Title
	Chairman
	Secretary
	Attorney

EXHIBIT A

See Specimen Bond (Tab No. 9)

Ghosh Engineers Inc. CONSULTING ENGINEERS

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND,
SERIES 2008 A (STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

ENGINEER'S CERTIFICATE

I, Pulak Ghosh, Registered Professional Engineer, West Virginia License No. 7806, of Ghosh Engineers, Inc., Charleston, West Virginia, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain improvements and extensions (the "Project") to the existing public sewerage facilities (the "System") of Elk Valley Public Service District (the "District"), to be constructed in Kanawha County, West Virginia, which project is being financed in part by the above-captioned revenue bond and note (the "Bond and Note") of the District. Capitalized terms used and not otherwise defined herein shall have the meaning assigned to such terms in the Resolution adopted by the Public Service Board of the District on July 29, 2008 (the "Resolution"), the Bond Loan Agreement by and among the District, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Department of Environmental Protection ("DEP") dated August 12, 2008 (the "Bond Loan Agreement"), and the Note Loan Agreement by and between the District and the Authority dated August 12, 2008 (the "Note Loan Agreement").

2. The Bond and Note are being issued for the purposes of (i) paying a portion of the costs of acquiring and constructing the Project and (ii) paying costs of issuance and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the DEP, and any change orders approved by the Issuer, the DEP and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and will have a useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule A attached hereto as Exhibit A, and all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) based upon our review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, the surety bonds and

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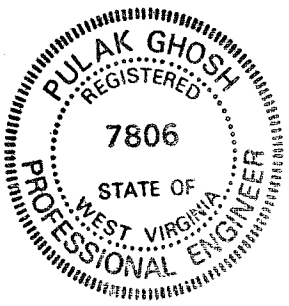
policies are adequate in form, substance and amount to protect the various interests of the District; (v) the successful bidders received any and all addenda to the original bid documents; (vi) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vii) the successful bids include prices for every item on such bid forms; (viii) the uniform bid procedures were followed; (ix) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (x) in reliance upon the certificate of John Blackwell, CPA of even date herewith, as of the effective date thereof, the rates and charges for the System as approved by the Public Service Commission of West Virginia and adopted by the Issuer will be sufficient to comply with the provisions of the Bond and Note Loan Agreements; (xi) the net proceeds of the Bond and Note, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefore, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP; (xii) the District has obtained all right-of-ways, deeds and/or contracts to purchase and/or exchange land needed to construct the Project and operate the System; and (xiii) attached hereto as Exhibit A is the final amended "Schedule A-Total Cost of Project; Sources of Funds and Cost of Financing" for the Project.

WITNESS my signature and seal on this 12th day of August, 2008.

GHOSH ENGINEERS, INC.

By: _____
Pulak Ghosh, P.E.
West Virginia License No. 7806

[SEAL]



SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: *Elk Valley PSD -Kanawha County*
ESTIMATED TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. Cost of Project			
1	Construction	$ 17,329,649.00	
2	Technical Services	$ 1,419,934.00	
3	Legal and Fiscal	$ 95,000.00	
4	Administrative	$ -	
5	Site and Other Lands*	$ 27,750.00	
6	Fac. Plan/Design or Other Loan	$ -	
	Repayment (Specify Type: _____)	$ -	
7	Interim Financing Costs	$ -	
8	Contingency	$ 828,461.00	
9	Miscellaneous -	$ 20,000.00	
10	Total of Lines 1 Through 9		$ 19,720,794.00
B. Source of Funds			
11	Federal Grants	$ -	
	(Specify Sources)	$ -	
12	State Grants	$ -	
	(Specify Sources) -~~IJDC Grant~~ WDA GAN	$ 1,183,677.00	
13	Oher Grants	$ -	
	(Specify Sources) - Kanawha Co. Commission	$ 350,000.00	
14	Any Other Source	$ -	
	(Specify) - Elk Valley PSD Funds	$ 165,000.00	
15	Total of Lines 11 Through 14		$ 1,698,677.00
16	Net Proceeds Required from Bond Issue (Line 10 Less Line 15)		$ 18,022,117.00
C. Cost of Financing			
17	Bond Counsel	$ 39,000.00	
18	Funded Reserve Account	$ -	
19	Total Cost of Financing (Line 17+ Line 18)		$ 39,000.00
20	Size of Bond Issue (Line 16 + Line 19)		$ 18,061,117.00

* Not allowable for State Revolving Fund Assistance
** WDA Loans associated with EPA grants are not allowable

Signature of Applicant

Date: August 7, 2008

Signature of Consulting Engineer

Date: Aug 7, 2008

FILE: Elk Valley PSD Bid Tabulation.xls

johnblackwellcpa

3897 Pennsylvania Avenue, Charleston, WV 253(
P.O. Box 12328, Charleston, WV 25302-0328

304-344-3324 Telephone
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jblackwell@suddenlinkmail.com

August 12, 2008

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND
SERIES 2008 A (STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

CERTIFIED PUBLIC ACCOUNTANT'S CERTIFICATE

Elk Valley Public Service District
Elkview, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Division of Environmental Protection
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the sewer rates of Elk Valley Public Service District (the "Issuer"), as approved by the order of the Public Service Commission of West Virginia entered January 2, 2008, in Case No. 07-1024-PWD-CN, amended by a Commission Order entered August 7, 2008, the projected operating expenses and the anticipated customer usage provided by Ghosh Engineers, Inc., the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the water facilities of the Issuer (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 Issuer's (a) $5,227,400 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987A, (b) $1,282,163 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987B, (c) $1,388,390 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990A, and (d) $62,701 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990B (collectively, the "Prior Bonds"), and its Sewer Revenue Bond, Series 2008 A (State Revolving Fund) (the "Series 2008 Bond").

It is further my opinion that the Net Revenues for the fiscal year following the year in which the Series 2008 Bond is to be issued will be at least 115% of the average annual debt service requirements on the Prior Bonds and the Series 2008 Bond.

It is further our 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 Series 2008 Bond, 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 the Series 2008 Bond, will not be less than 115% of the maximum annual amount which will mature and become due in any succeeding year for principal of and interest on the Prior Bonds and the Series 2008 Bond.

Very truly yours,

JOHN BLACKWELL, C.P.A.

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

CERTIFICATE OF SECRETARY AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, Doug Stump, the duly elected Secretary of the Elk Valley Public Service District (the "District"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of the $18,061,117 Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund), and the $1,183,677 Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the District and delivered in the transcript of proceedings, 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, rescission, supersedence, amendment or modification is also listed below:

1. Bond Resolution adopted on July 29, 2008.

2. Supplemental Resolution adopted on July 29, 2008.

3. Bond Purchase Agreement dated July 30, 2008 and Note Loan Agreement dated August 12, 2008.

4. Public Service Commission Orders entered on January 2, 2008 and August 7, 2008.

5. Infrastructure and Jobs Development Council Approval.

6. County Commission Order Creating Elk-Pinch Public Service District and Big Sandy Public Service District and Approving Their Merger into the District.

7. County Commission Orders Appointing Board Members.

8. Oaths of Office of Board Members.

9. Rules of Procedure.

10. Minutes of Current Year Organizational Meeting.

11. Minutes on Adoption of Bond Resolution and Supplemental Resolution.

12. Affidavits of Publication and Abstract of Bond Resolution and Notice of PSC Filing.

13. 1987 Bond Resolution.

14. 1990 Bond Resolution.

15. Water Development Authority Consent to Issuance of Parity Bond.

16. Evidence of Insurance.

17. NPDES Permit.

WITNESS my signature and the official seal of the Elk Valley Public Service District as of the 12th day of August, 2008.

ELK VALLEY PUBLIC SERVICE DISTRICT CORPORATE SEAL (SEAL) WEST VIRGINIA

Secretary

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

CERTIFICATE AS TO USE OF PROCEEDS

The undersigned Chairman of the Public Service Board of the Elk Valley Public Service District in Kanawha County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of the $18,061,117 Sewer Revenue Bond, Series 2008 A (State Revolving Fund), and the $1,183,677 Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), of the Issuer, dated August 12, 2008 (collectively, the "Bond and Note"), hereby certifies as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bond and Note. I am familiar with the facts, circumstances and estimates herein certified and am 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 meanings set forth in the Bond Resolution duly adopted by the Issuer on July 29, 2008, and supplemented by a Supplemental Resolution adopted by the Issuer on July 29, 2008 (collectively, the "Bond Resolution"), authorizing the Bond and Note.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on August 12, 2008, the date on which the Bond and Note are being physically delivered in exchange for a portion of the principal amount of the Bond and Note, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Resolution pursuant to which the Bond and Note are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bond and Note that would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority"), from which the proceeds of the Bond and Note are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Bond was sold on August 12, 2008, to the Authority, pursuant to a Bond Loan Agreement dated August 12, 2008, by and among the Issuer, the Authority and West Virginia Department of Environmental Protection ("DEP"), for the aggregate purchase price of $18,061,117 (100% of par), at which time, the Issuer received $903,056.00 from the Authority and DEP, being a portion of the principal amount of the Bond. No accrued interest has been or will be paid on the Bond. The balance of the principal amount of the Bond will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Note was sold on August 12, 2008, to the Authority, pursuant to a Note Loan Agreement dated August 12, 2008, by and between the Issuer and the Authority, for the aggregate purchase price of $1,183,677 (100% of par). No accrued interest has been or will be paid on the Note. The balance of the principal amount of the Note will be advanced to the Issuer as acquisition and construction of the Project progresses.

7. The Bond and Note are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying a portion of the costs of acquiring, constructing and equipping certain improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bond and Note and related costs.

8. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bond and Note for the acquisition, construction and equipping of the Project, constituting a substantial binding commitment, or has already done so. The acquisition, construction and equipping of the Project and the allocation of the net sale proceeds of the Bond and Note to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and all of the proceeds from the sale of the Bond and Note, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before August 12, 2011. The acquisition, construction and equipping of the Project is expected to be completed by August 12, 2010.

9. The total cost of the Project is estimated at $8,192,677. Sources and uses of funds for the Project are as follows:

SOURCES	
Bond Proceeds	$18,061,117
Note Proceeds	1,183,677
Kanawha County Commission Contribution	350,000
Issuer Contribution	165,000
Total Sources	$19,759,794
USES	
Project Costs	$19,720,794
Cost of Issuance	39,000
Total Uses	$19,759,794

10. Pursuant to Article V of the Bond Resolution, the following special funds have been created or continued with respect to the Bond:

(1) Revenue Fund;
(2) Renewal and Replacement Fund;
(3) Series 2008 Bond Sinking Fund;
(4) Series 2008 Bond Reserve Account; and
(5) Series 2008 Construction Trust Fund.

11. Pursuant to Article VI of the Bond Resolution, all of the proceeds of the Bond and Note will be deposited in the Series 2008 Construction Trust Fund and applied solely to payment of costs of the Project, including costs of issuance of the Bond and Note and related costs, and for no other purpose.

12. Moneys held in the Series 2008 Bond Sinking Fund will be used solely to pay principal of and interest, if any, on the Bond and will not be available to meet costs of acquisition, construction and equipping of the Project.

13. The acquisition, construction and equipping of the Project will proceed with due diligence to completion. The acquisition, construction and equipping of the Project is expected to be completed within 24 months of the date hereof. All proceeds of the Bond and Note will be expended on the Project within 36 months from the date hereof

14. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

15. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bond and Note.

16. The amount designated as costs of issuance of the Bond and Note consists only of costs that are directly related to and necessary for the issuance of the Bond and Note.

17. All property financed with the proceeds of the Bond and Note will be owned and held by (or on behalf of) a qualified governmental unit.

18. No proceeds of the Bond and Note will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

19. The original proceeds of the Bond and Note will not exceed the amount necessary for the purposes of the issue. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of the Bond and Note so that use of proceeds from the Bond and Note can be accounted for.

20. The Issuer shall use the Bond and Note proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

21. The Bond and Note are not federally guaranteed.

22. The Issuer has retained the right to amend the Bond Resolution authorizing the issuance of the Bond and Note if such amendment is necessary to assure that the Bond and Note remain governmental or public purpose bonds.

23. The Issuer has either (a) funded the Series 2008 Bond Reserve Account at the maximum amount of principal which will mature and become due on the Bond in the then current or any succeeding year with the proceeds of the Bond, or (b) created the Series 2008 Bond Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until the Series 2008 Bond Reserve Account holds an amount equal to the maximum amount of principal which will mature and become due on the Bond in the then current or any succeeding year. Moneys in the Series 2008 Bond Reserve Account and the Series 2008 Bond Sinking Fund will be used solely to pay principal of the Bond and will not be available to pay costs of the Project.

24. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bond and Note, (b) are to be sold pursuant to a common plan of financing together with the Bond and Note, and (c) will be paid out of substantially the same sources of funds of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bond and Note.

25. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances that would materially change the expectations herein expressed.

26. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bond and Note, rebates and rebate calculations.

27. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature as of this 12th day of August, 2008.

ELK VALLEY PUBLIC SERVICE DISTRICT

By: _____
Chairman

AT A REGULAR SESSION OF THE COUNTY COURT OF KANAWHA COUNTY, WEST VIRGINIA, CONTINUED AND HELD FOR SAID COUNTY AT THE COURTHOUSE THEREOF ON FRIDAY, THE 30TH DAY OF APRIL, A.D., 1971.

PRESENT: HONORABLE KELLY L. CASTLEBERRY, PRESIDENT, DEWEY E. S. KUHNS AND HENRY C. SHORES, GENTLEMEN COMMISSIONERS OF THE COUNTY.

RE: AN ORDER WHEREBY THE COUNTY COURT OF KANAWHA COUNTY, WEST VIRGINIA, PROPOSES ON ITS OWN MOTION AND ON PETITION DULY FILED OF OVER ONE HUNDRED REGISTERED VOTERS AND PROPERTY OWNERS WITHIN SAID PROPOSED DISTRICT TO CREATE A PUBLIC SERVICE DISTRICT TO BE KNOWN AS "BIG SANDY PUBLIC SERVICE DISTRICT" FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, OPERATING, MAINTAINING AND IMPROVING A PUBLIC SEWER SYSTEM OR PUBLIC WATER SYSTEM, OR BOTH, FOR THE RESIDENTS OF AN AREA HEREINAFTER DESCRIBED IN BIG SANDY DISTRICT, KANAWHA COUNTY, WEST VIRGINIA, AND FIXING A DATE FOR HEARING OF SAID MOTION AND PROVIDING FOR THE PUBLICATION OF NOTICE OF SUCH HEARING.

WHEREAS, there has heretofore been filed in the office of the Clerk of the County Court of Kanawha County, West Virginia, a petition by over one hundred registered voters and property owners resident within the proposed district, to this Court for the creation of a public service district within Kanawha County, West Virginia; and

WHEREAS, at this meeting the said County Clerk has presented such petition to the Court; and

WHEREAS, upon presentation and consideration of said petition it is found and determined to be desirable and

proper in accordance with Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended, for this Court based on said petition and on its own motion to propose the creation of said public service district and to fix a date of hearing on said motion and to provide for the publication of this order.

NOW, THEREFORE, upon the basis of said petition and on the Court's own motion it is hereby ORDERED by the County Court of Kanawha County, West Virginia, as follows:

Section 1: That the County Court of Kanawha County, West Virginia, hereby finds and declares that there has been filed in the office of the Clerk and presented to this Court by said Clerk a petition for the creation of a public service district within Kanawha County, West Virginia, which said petition contains a description sufficient to identify the territory to be embraced within said public service district and which petition has been signed by more than one hundred legal voters resident within and owning real property within the limits of the proposed public service district. The County Court of Kanawha County further finds and declares that it is in all respects desirable and proper for the County Court on the basis of said petition and on its own motion to propose the creation of said public service district. The motion proposing the creation of said public service district was duly made, seconded and carried.

Section 2: The County Court of Kanawha County does declare and find the following matters and things to be suitable, proper and in accordance with Chapter 16, Article 13A of the Code of West Virginia:

(a) The name and corporate title of said public service district shall be the "Big Sandy Public Service District."

(b) The territory to be embraced in said public service district shall be as follows:

The said district shall consist of an area of 7500 acres, more or less, circumscribed as hereinafter recorded, and as shown on a SE/4 WALTON 15' QUADRANGLE - 1957 EDITION - PUBLISHED BY THE U. S. GEOLOGICAL SURVEY, all located within Big Sandy District of Kanawha County, West Virginia, as follows:

> Beginning at a point on the common boundary of Kanawha County and Roane County, said point being at Latitude N 38° 32' 33", approximately, and Longitude W 81° 22' 30"; thence proceeding approximately 15,400 feet due south on Longitude W 81° 22' 30" to Latitude N 38° 30'; thence proceeding approximately 23,800 feet due east on Latitude N 38° 30' to Longitude W 81° 30"; thence proceeding due north approximately 10,700 feet on Longitude W 81° 17' 30" to a point on the common boundary of Kanawha County and Roane County; thence proceeding in a west northwesterly direction on the said boundary line to the point of beginning.

(c) The purpose of said public service district shall be to construct, acquire, maintain, and improve a public sewerage system or a public water system, or both, within such territory and also outside of such territory to the extent permitted by law.

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

Section 3: That on the 21st day of May, 1971, being a day in the regular session of this Court, at 10 o'clock a.m., E.D.S.T., on said day, in the County Court Room in the Courthouse, this Court will conduct a public hearing on the creation of the proposed public service district for the purpose of considering and determining the feasibility thereof and to consider and determine if the construction, maintenance and operation of said public service district will be conductive to the preservation of public health, comfort and convenience of residents of said area, 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 before this County Court and shall have an opportunity to be heard for or against the creation of said public service district.

Section 4: The Clerk of this Court is hereby ORDERED and DIRECTED to cause notice of such meeting and hearing be given by the publication of this order. This order shall be published in the Charleston Gazette and the Charleston Daily Mail, newspapers of general circulation published in Kanawha County, as a Class I legal advertisement in compliance with the provisions of Chapter 59, Article 3 of the official code of West Virginia of 1931, as amended.

Dated the 30th day of April, 1971.

Teste:

THE COURT COURT OF KANAWHA COUNTY

Kelly L. Castleberry, President

Dewey E. S. Kuhns, Commissioner

Henry C. Shores, Commissioner

Section 2. The aforesaid persons shall meet as soon as practicable, at the office of the Clerk of said County Court and shall qualify by taking an oath of office, and thereafter said appointees constituting the initial public service board of the Big Sandy Public Service District shall meet and organize in compliance with the provisions of Article 13A of Chapter 16 of the West Virginia Code.

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted. Henry C. Shores seconded the motion and after due consideration the President put the question on the motion and the roll being called the following voted:

Aye: Kelly L. Castleberry
Dewey E. S. Kuhns
Henry C. Shores

Nay:

None.

Whereupon the President declared the motion duly carried and said resolution and order duly adopted.

Adopted by the County Court of Kanawha County, West Virginia, on this 21st day of May, 1971.

Teste:

THE COUNTY COURT OF KANAWHA COUNTY

A True Copy From The Record
KELLY L. CASTLEBERRY, CLERK
By _____ D.

At a regular session of the County Commission of Kanawha County, West Virginia, continued and held for said County at the Courthouse thereof on the 12th day of November, A.D. 1975.

Present:

John D. Catalano, President
Kanawha County Commission

Thomas L. Black, Commissioner

Kelly L, Castleberry, Commissioner

RE: AN ORDER WHEREBY THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, PROPOSES ON ITS OWN MOTION, TO EXPAND THE PUBLIC SERVICE DISTRICT KNOWN AS "BIG SANDY PUBLIC SERVICE DISTRICT", FOR THE PURPOSES OF ACQUIRING, CONSTRUCTING, OPERATING, MAINTAINING, AND IMPROVING A PUBLIC SEWER SYSTEM FOR THE RESIDENCE OF AN AREA HEREINAFTER DESCRIBED IN THE BIG SANDY DISTRICT, KANAWHA COUNTY, WEST VIRGINIA, AND AFFIXING A DATE FOR THE HEARING OF SAID MOTION AND PROVIDING FOR THE PUBLICATION OF NOTICE OF SUCH HEARING.

WHEREAS, in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated this County Commission by its own motion and by this order duly

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KANAWHA COUNTY
PLANNING COMMISSION

adopted doth propose the expansion of said Big Sandy Public Service District and to fix a date appearing on said motion and to provide for the publication of this order.

NOW, THEREFORE, upon the Commission's own motion, it is hereby ORDERED by the County Commission of Kanawha County, West Virginia, as follows:

Section 1: The County Commission of Kanawha County, West Virginia does declare and find the following matters and things to be suitable, proper and in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated:

(a) The territory to be embraced in said expansion of said Public Service District shall be as follows:

BEGINNING at a point where the northeastern boundary line of the existing Big Sandy Public Service District intersects the Kanawha - Roane County boundary line.

THENCE from the aforesaid point following the Kanawha County - Roane County boundary line in a westerly direction for a distance of approximately 5.68 miles more or less to a point where the Kanawha County - Roane County boundary line intersects W. Va. Sec. Rt. 43.

THENCE from the aforesaid point leaving the Kanawha County - Roane County boundary line in a southerly direction following the center line of W. Va. Sec. Rt. 53/1 to a point where W. Va. Sec. Rt. 53/1 intersects W. Va. Sec. Rt. 43/2.

THENCE from the aforesaid point following W. Va. Sec. Rt. 53/1 in a southeasterly direction for approximately 2,200 feet to a point on the ridge line forming the drainage divide between Bufflick Run and Wills Creek.

THENCE from the aforesaid point continuing along this ridge in a southerly direction to a point where the ridge line intersects a pipeline north of Campbell Branch.

THENCE from the aforesaid point continuing along this pipeline in a southeasterly direction to a point approximately 2,800 feet more or less on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE from the aforesaid point leaving the said pipeline in a southwesterly direction following the ridge line forming the drainage divide between Campbell Branch and Jordan Creek passing through the Rucker Cemetery to a point where the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE from the aforesaid point continuing along the ridge line forming the drainage divide between Sand Run and Wills Creek to a point where the ridge line intersects a pipeline.

THENCE from the aforesaid point continuing along this pipeline in a southwesterly direction to a point on the ridge forming the drainage divide between Riley Branch and Wills Creek.

THENCE from the aforesaid point leaving said ridge line and pipeline in a southerly direction along the ridge line forming the drainage divide between Riley Branch and Narrow Branch passing through a pipeline to a point on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a southwesterly direction to said point being on the boundary line of the Elk-Pinch Public Service District.

THENCE from the aforesaid point following the Elk-Pinch Public Service District boundary line in a southeasterly direction to a point in the middle of Elk River.

THENCE from the aforesaid point being the common point of the Elk-Pinch Public Service District leaving the Elk River in a southerly direction to a point on the ridge being a common point of the Elk-Pinch Public Service District.

THENCE from the aforesaid point continuing along the Elk-Pinch Public Service District boundary line to a point where the Elk-Pinch Public Service District boundary intersects a pipeline on the ridge line dividing Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point leaving the common boundary line of the Elk-Pinch Public Service District and following the pipeline in an easterly direction to a point where the pipeline leaves the ridge divide between Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point continuing along this ridge in an easterly direction passing through W. Va. Sec. Rt. 52 to a point on the top of the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point leaving the ridge crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Blue Creek and Lower Three-Mile Fork.

THENCE from the aforesaid point continuing along the ridge in a northerly direction to a point on the ridge.

THENCE from the aforesaid point leaving the ridge in an easterly direction and crossing Blue Creek to a point where Upper Three-Mile Fork branches into Blue Creek.

THENCE from the aforesaid point continuing in a southeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point following a jeep trail in a southwesterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point continuing along said jeep trail in an easterly direction to a point on a ridge forming the drainage divide between Hackberry Branch and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point in a northerly direction following the ridge line passing through the Hayes Cemetery to a point on the ridge approximately 1,500 feet northeast of said cemetery.

THENCE from the aforesaid point in an easterly direction leaving the ridge and crossing Rock Creek to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE from the aforesaid point in an easterly direction following the jeep trail and ridge line forming the drainage divide between Falling Rock Creek and Mudlick Fork to a point where the ridge crosses W. Va. Sec. Rt. 65.

THENCE from the aforesaid point in an easterly direction following the ridge forming the drainage divide between Poplar Hollow and Wolfpen Run to a point where the ridge intersects a pipeline on DuVal Ridge.

THENCE from the aforesaid point following the ridge in an easterly direction that forms the drainage divide between Falling Rock Creek and Morris Creek along W. Va. Sec. Rt. 56 to a point where W. Va. Sec. Rt. 56 intersects W. Va. Sec. Rt. 67.

THENCE from the aforesaid point in an easterly direction following W. Va. Sec. Rt. 67 to the Kanawha County and Clay County line.

THENCE from the aforesaid point in a northerly direction leaving the W. Va. Sec. Rt. 67 and following the Kanawha County - Clay County boundary line to a point in the center of Elk River.

THENCE from the aforesaid point continuing along the Kanawha County - Clay County line in a northeasterly direction to a point common to the Kanawha County - Clay County and Roane County line.

THENCE from the aforesaid point in a westerly direction following the Kanawha County - Roane County boundary to the point of beginning.

(b) The purpose of said Big Sandy Public Service District expansion shall be to construct, acquire, maintain and approve a public service sewerage system within such territory and also outside of such territory to the extent permitted by law.

(c) The expanded territory has within its limits the territory of the incorporated town of Clendenin, West Virginia. The said town of Clendenin has duly adopted a resolution by its governing body consenting to its inclusion in the expansion of the Big Sandy Public Service District.

(d) That on the 5th day of December, 1975, being a day in the regular session of this Commission, at 11:00 o'clock A.M., Eastern Daylight Time, on said day, in the County Commission room of the Kanawha County Courthouse, this Commission will conduct a public hearing on the expansion of said Public Service District for the purpose of hearing and determining the feasibility thereof and to consider and

determine whether the construction, maintenance and operation of the said expanded Public Service District will be conducive to the preservation of public health, comfort, and convenience of residents of said area, at which time and place all persons residing in or owning or having any interest in property in the proposed expanded Public Service District, may appear before this County Commission and shall have an opportunity to be heard for or against the expansion of said Big Sandy Public Service District.

Section 2: The Clerk of this Commission is hereby ORDERED and DIRECTED to cause notice of said meeting and hearing to be given by publication of this Order. This Order shall be published in The Charleston Gazette and The Charleston Daily Mail, newspapers of general circulation published in Kanawha County, West Virginia, as a Class I legal advertisement in compliance with the provisions of Chapter 59, Article 3 of the West Virginia Code Annotated.

DATED this 12th day of November, 1975.

TESTE:

THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

J. D. Catalano
Commissioner

Commissioner

Commissioner

Approved By:

County Attorney

A True Copy From The Record
JACK L. PAULEY, CLERK
By Helen S. Pursch
Deputy

At a regular session of the County Commission of Kanawha County, West Virginia, continued and held for said County at the Courthouse thereof on the 5th day of December, 1975.

Present:

John D. Catalano, President
Kanawha County Commission

Thomas L. Black, Commissioner

Kelly L. Castleberry, Commissioner

RE: AN ORDER WHEREBY THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, EXPANDS THE PUBLIC SERVICE DISTRICT KNOWN AS "BIG SANDY PUBLIC SERVICE DISTRICT", FOR THE PURPOSES OF ACQUIRING, CONSTRUCTING, OPERATING, MAINTAINING, AND IMPROVING A PUBLIC SERVICE SYSTEM FOR THE RESIDENTS OF AN AREA HEREINAFTER DESCRIBED IN THE BIG SANDY DISTRICT, KANAWHA COUNTY, WEST VIRGINIA.

WHEREAS, in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated, this County Commission by its own motion and order duly adopted on the 12th day of November, 1975 proposed an expansion of the Big Sandy Public Service District for the purposes of acquiring, constructing, operating, maintaining and improving a public service

district; and

WHEREAS, a public hearing was held on the 5th day of December, 1975, being a day in the regular session of this Commission, at 11:00 o'clock A.M., Eastern Daylight Time, on said day, in the County Commissioner's room of the Kanawha County Courthouse, on the expansion of said Public Service District for the purpose of hearing and determining the feasibility of expanding said Public Service District; and to consider and to determine whether the construction, maintenance and operation of said expanded Public Service District would be conducive to the preservation of public health, comfort and convenience of residents of said area; and at said meeting all persons residing in or owning or having an interest in any property in the proposed expanded Public Service District had an opportunity to be heard for and against the expansion of said Big Sandy Public Service District; and

WHEREAS, notice of the said public hearing was published in the Charleston Gazette and the Charleston Daily

Mail, newspapers of general circulation published in Kanawha County, West Virginia, as a Class 1 legal advertisement on the 24th day of November, 1975; and

WHEREAS public notices were posted of the aforesaid public meeting at the following places: Clendenin Post Office, Blue Creek Post Office, Falling Rock Post Office, Clendenin Town Hall, and the Clendenin Kroger store, being public locations within the Big Sandy Public Service District, Kanawha County, West Virginia; and

WHEREAS, no opposition to the proposed expansion of the Big Sandy Public Service District was voiced at the said public meeting.

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

Section 1: The County Commission of Kanawha County, West Virginia does declare and find the following matters and

things suitable, proper and in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated:

(a) The expansion of the Big Sandy Public District, as hereinafter provided, for the purpose of constructing, acquiring, maintaining and improving public service sewage systems within its territory and also outside of its territory to the extent permitted by law is conducive to the preservation of public health, comfort and convenience to residents of said area.

(b) The territory to be embraced in said expansion of said Public Service District is as follows:

> BEGINNING at a point where the northeastern boundary line of the existing Big Sandy Public Service District intersects the Kanawha - Roane County boundary line.
>
> THENCE from the aforesaid point following the Kanawha County - Roane County boundary line in a westerly direction for a distance of approximately 5.68 miles more or less to a point where the Kanawha County - Roane County boundary line intersects W.Va. Sec. Rt. 43.
>
> THENCE from the aforesaid point leaving the Kanawha County - Roane County boundary line in a southerly direction following the center line of W. Va. Sec. Rt. 53/1 to a point where W. Va. Sec. Rt. 53/1 intersects W. Va. Sec. Rt. 43/2.

THENCE from the aforesaid point following W. Va. Sec. Rt. 53/1 in a southeasterly direction for approximately 2,200 feet to a point on the ridge line forming the drainage divide between Bufflick Run and Wills Creek.

THENCE from the aforesaid point continuing along this ridge in a southerly direction to a point where the ridge line intersects a pipeline north of Campbell Branch.

THENCE from the aforesaid point continuing along this pipeline in a southeasterly direction to a point approximately 2,800 feet more or less on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE from the aforesaid point leaving the said pipeline in a southwesterly direction following the ridge line forming the drainage divide between Campbell Branch and Jordan Creek passing through the Rucker Cemetery to a point where the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE from the aforesaid point continuing along the ridge line forming the drainage divide between Sand Run and Wills Creek to a point where the ridge line intersects a pipeline.

THENCE from the aforesaid point continuing along this pipeline in a southwesterly direction to a point on the ridge forming the drainage divide between Riley Branch and Wills Creek.

THENCE from the aforesaid point leaving said ridge line and pipeline in a southerly direction along the ridge line forming the drainage divide between Riley Branch and Narrow Branch passing through a pipeline to a point on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a southwesterly direction to said point being on the boundary line of the Elk-Pinch Public Service District.

THENCE from the aforesaid point following the Elk-Pinch Public Service District boundary line in a southeasterly direction to a point in the middle of Elk River.

THENCE from the aforesaid point being the common point of the Elk-Pinch Public Service District leaving the Elk River in a southerly direction to a point on the ridge being a common point of the Elk-Pinch Public Service District.

THENCE from the aforesaid point continuing along the Elk-Pinch Public Service District boundary line to a point where the Elk-Pinch Public Service District boundary intersects a pipeline on the ridge line dividing Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point leaving the common boundary line of the Elk-Pinch Public Service District and following the pipeline in an easterly direction to a point where the pipeline leaves the ridge divide between Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point continuing along this ridge in an easterly direction passing through W. Va. Sec. Rt. 52 to a point on the top of the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point leaving the ridge crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Blue Creek and Lower Three-Mile Fork.

THENCE from the aforesaid point continuing along the ridge in a northerly direction to a point on the ridge.

THENCE from the aforesaid point leaving the ridge in an easterly direction and crossing Blue Creek to a point where Upper Three-Mile Fork branches into Blue Creek.

THENCE from the aforesaid point continuing in a southeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point following a jeep trail in a southwesterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point continuing along said jeep trail in an easterly direction to a point on a ridge forming the drainage divide between Hackberry Branch and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point in a northerly direction following the ridge line passing through the Hayes Cemetery to a point on the ridge approximately 1,500 feet northeast of said cemetery.

THENCE from the aforesaid point in an easterly direction leaving the ridge and crossing Rock Creek to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE from the aforesaid point in an easterly direction following the jeep trail and ridge line forming the drainage divide between Falling Rock Creek and Mudlick Fork to a point where the ridge crosses W. Va. Sec. Rt. 65.

THENCE from the aforesaid point in an easterly direction following the ridge forming the drainage divide between Poplar Hollow and Wolfpen Run to a point where the ridge intersects a pipeline on DuVal Ridge.

THENCE from the aforesaid point following the ridge in an easterly direction that forms the drainage divide between Falling Rock Creek and Morris Creek along W. Va. Sec. Rt. 56 to a point where W. Va. Sec. Rt. 56 intersects W. Va. Sec. Rt. 67.

THENCE from the aforesaid point in an easterly direction following W. Va. Sec. Rt. 67 to the Kanawha County and Clay County line.

THENCE from the aforesaid point in a northerly direction leaving the W. Va. Sec. Rt. 67 and following the Kanawha County - Clay County boundary line to a point in the center of Elk River.

THENCE from the aforesaid point continuing along the Kanawha County - Clay County line in a northeasterly direction to a point common to the Kanawha County - Clay County and Roane County line.

THENCE from the aforesaid point in a westerly direction following the Kanawha County - Roane County boundary to the point of beginning.

The purpose of said public service district expansion is to construct, acquire, maintain and improve a public service sewage system within such territory and also outside such territory to the extent permitted by law.

(b) The expanded territory has within its limits the territory of the incorporated Town of Clendenin, West Virginia. The said Town of Clendenin has duly adopted a resolution by its governing body consenting to its inclusion in the expansion of the Big Sandy Public Service District.

Section No. 2: The Clerk of this Commission is hereby ordered and directed to maintain in his office an authentic copy of this order expanding the said Big Sandy Public Service District.

DATED this 5th day of December, 1975.

TESTE:

THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

J. H. Catalano
Commissioner

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At a regular session of the County Commission of Kanawha County, West Virginia, continued and held for said County at the Courthouse thereof on the 2nd day of June, A.D., 1976.

Present:

John D. Catalano, President
Kanawha County Commission

Thomas L. Black, Commissioner

Kelly L. Castleberry, Commissioner

RE: AN ORDER WHEREBY THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, PROPOSES ON ITS OWN MOTION, TO EXPAND THE PUBLIC SERVICE DISTRICT KNOWN AS "BIG SANDY PUBLIC SERVICE DISTRICT", FOR THE PURPOSES OF (A) ACQUIRING, CONSTRUCTING, OPERATING, MAINTAINING, AND IMPROVING A PUBLIC WATER SYSTEM FOR THE RESIDENCES OF AN AREA HEREINAFTER DESCRIBED IN BIG SANDY DISTRICT, KANAWHA COUNTY, WEST VIRGINIA: AND (B) AFFIXING A DATE FOR THE HEARING OF SAID MOTION AND PROVIDING FOR THE PUBLICATION OF NOTICE OF SUCH HEARING.

WHEREAS, in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated, this County Commission by its own motion and by this order duly

adopted doth propose the expansion of said Big Sandy Public Service District and to fix a date appearing on said motion, and to provide for the publication of this order.

NOW, THEREFORE, upon the Commission's own motion, it is hereby ORDERED by the County Commission of Kanawha County, West Virginia, as follows:

Section 1: The County Commission of Kanawha County, West Virginia does declare and find the following matters and things to be suitable, proper and in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated:

(a) The territory to be embraced in said expansion of said Public Service District shall be as follows:

> BEGINNING at a point in the common boundary line between Kanawha County and Roane County, said point being at latitude N. 38°-32' 33", approximately, and longitude W. 81°-22' 30";
>
> THENCE proceeding approximately 15,400 feet due south on longitude W. 81°-22' 30" to latitude N. 38°-30' 00";
>
> THENCE proceeding approximately 7,500 feet due east on latitude N. 38°-30' 00" to the west bank of Big Sandy Creek;
>
> THENCE proceeding in a southerly and a southwesterly direction along the west bank of Big Sandy Creek for approximately 3,100 feet to the Clendenin City line;

THENCE proceeding in an easterly, then southerly, direction along the Clendenin City line for approximately 7,700 feet to the intersection of the Clendenin City line and the south bank of Elk River;

THENCE proceeding in a southeasterly direction along the south bank of Elk River, with its meanders, for a distance of approximately 16,000 feet to the intersection of the south bank of the Elk River and the Kanawha County and Clay County boundary line;

THENCE proceeding northeast along the Kanawha County and Clay County boundary line for approximately 32,700 feet to the point where the boundary lines of Kanawha County, Clay County and Roane County intersect, and said point being also the eastern-most point of Big Sandy District of Kanawha County;

THENCE proceeding randomly westward along the common boundary line between Kanawha County and Roane County for approximately 53,410 feet to the point of beginning, enclosing an area of approximately 25.62 square miles.

(b) The purpose of said Big Sandy Public Service District expansion shall be to construct, acquire, maintain and approve a public service water system within such territory and also outside of such territory to the extent permitted by law.

(c) The expanded territory does not have within its limits the territory of any incorporated town.

(d) That on the 30th day of June, 1976, being a day in the regular session of this Commission, at 11:00 o'clock A.M., Eastern Daylight Savings Time, on said day, in

the County Commission room of the Kanawha County Courthouse, this Commission will conduct a public hearing on the expansion of said Big Sandy Public Service District for the purpose of hearing and determining the feasibility thereof and to consider and determine whether the construction, maintenance and operation of the said expanded Public Service District will be conducive to the preservation of public health, comfort, and convenience of residents of said area, at which time and place all persons residing in or owning or having any interest in property in the proposed expanded Public Service District, may appear before this County Commission and shall have an opportunity to be heard for or against the expansion of said Big Sandy Public Service District.

Section 2: The Clerk of this Commission is hereby ORDERED and DIRECTED to cause notice of said meeting and hearing to be given by publication of this order. This order shall be published in The Charleston Gazette and The Charleston Daily Mail, newspapers of general circulation published in Kanawha County, West Virginia, as a Class I

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legal advertisement in compliance with the provisions of Chapter 59, Article 3 of the West Virginia Code Annotated.

DATED this 2nd day of June, 1976.

TESTE:

THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

Commissioner

Commissioner

Commissioner

Approved by:

County Attorney

I, Margaret D. Miller, do hereby certify that this is a true copy from the record.
Teste: MARGARET D. MILLER, Clerk
Kanawha County Commission
2-14-79 By
Deputy

At a regular session of the County Commission of Kanawha County, West Virginia, continued and held for said County at the Courthouse thereof on the 30th day of June, A.D., 1976.

Present:

Thomas L. Black, President
Kanawha County Commission

John D. Catalano, Commissioner

Kelly L. Castleberry, Commissioner

RE: AN ORDER WHEREBY THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA EXPANDS THE PUBLIC SERVICE DISTRICT KNOWN AS "BIG SANDY PUBLIC SERVICE DISTRICT", FOR THE PURPOSES OF (A) ACQUIRING, CONSTRUCTING, OPERATING, MAINTAINING, AND IMPROVING A PUBLIC WATER SYSTEM FOR THE RESIDENCES OF AN AREA HEREINAFTER DESCRIBED IN BIG SANDY DISTRICT, KANAWHA COUNTY, WEST VIRGINIA.

WHEREAS, in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated, this County Commission by its own motion and order duly adopted on the 12th day of November, 1975 proposed an expansion of the Big Sandy Public Service District for the purposes of acquiring, con-

structing, operating, maintaining and improving a public water system; and

WHEREAS, a public hearing was held on the 30th day of June, 1976, being a day in the regular session of this Commission, at 11:00 o'clock A.M., Eastern Daylight Savings Time, on said day, in the County Commissioner's room of the Kanawha County Courthouse, on the expansion of said Public Service District for the purpose of hearing and determining the feasibility of expanding said Public Service District; and to consider and to determine whether the construction, maintenance and operation of said expanded Public Service District would be conducive to the preservation of public health, comfort and convenience of residents of said area; and at said meeting all persons residing in or owning or having an interest in any property in the proposed expanded Public Service District had an opportunity to be heard for and against the expansion of said Big Sandy Public Service District; and

WHEREAS, notice of the said public hearing was published in the Charleston Gazette and the Charleston Daily Mail, newspapers of general circulation published in Kanawha

County, West Virginia, as a Class 1 legal advertisement on the 17th day of June, 1976; and

WHEREAS public notices were posted of the aforesaid public meeting at the following places: Clendenin Post Office, Jennings Fast Chek Market, Atlas Furniture store, Rules Campers and the Clendenin Kroger store, being public locations within the Big Sandy Public Service District, and the proposed expanded area, Kanawha County, West Virginia; and

WHEREAS, no opposition to the proposed expansion of the Big Sandy Public Service District was voiced at the said public meeting.

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

Section 1: The County Commission of Kanawha County, West Virginia does declare and find the following matters and things suitable, proper and in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code Annotated:

D

(a) The expansion of the Big Sandy Public Service District, as hereinafter provided, for the purpose of constructing, acquiring, maintaining and improving the public service water system within its territory and also outside of its territory to the extent permitted by law is conducive to the preservation of public health, comfort and convenience to residents of said area.

(b) The territory to be embraced in said expansion of said Public Service District shall be as follows:

> BEGINNING at a point in the common boundary line between Kanawha County and Roane County, said point being at latitude N. 38°-32' 33", approximately, and longitude W. 81°-22' 30";
>
> THENCE proceeding approximately 15,400 feet due south on longitude W. 81°-22' 30" to latitude N. 38°-30' 00";
>
> THENCE proceeding approximately 7,500 feet due east on latitude N. 38°-30' 00" to the west bank of Big Sandy Creek;
>
> THENCE proceeding in a southerly and a southwesterly direction along the west bank of Big Sandy Creek for approximately 3,100 feet to the Clendenin City line;
>
> THENCE proceeding in an easterly, then southerly, direction along the Clendenin City line for approximately 7,700 feet to the intersection of the Clendenin City line and the south bank of Elk River;

THENCE proceeding in a southeasterly direction along the south bank of Elk River, with its meanders, for a distance of approximately 16,000 feet to the intersection of the south bank of the Elk River and the Kanawha County and Clay County boundary line;

THENCE proceeding northeast along the Kanawha County and Clay County boundary line for approximately 32,700 feet to the point where the boundary lines of Kanawha County, Clay County and Roane County intersect, and said point being also the eastern-most point of Big Sandy District of Kanawha County;

THENCE proceeding randomly westward along the common boundary line between Kanawha County and Roane County for approximately 53,410 feet to the point of beginning, enclosing an area of approximately 25.62 square miles.

(c) The purpose of said Big Sandy Public Service District expansion is to construct, acquire, maintain and approve a public service water system within such territory and also outside of such territory to the extent permitted by law.

(d) The expanded territory does not have within its limits the territory of any incorporated town.

Section No. 2: The Clerk of this Commission is hereby ordered and directed to maintain in his office, an

authentic copy of this order expanding the said Big Sandy Public Service District.

DATED this 30th day of June, 1976.

TESTE:

THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

Thomas L. Black
Commissioner

Kelly J Castleberry
Commissioner

J. D. Catalano
Commissioner

Approved by:

County Attorney

True Copy From The Record
KELLY K. CASTLEBERRY, CLERK
By Kelly J Castleberry
Deputy

COUNTY COMMISSION KANAWHA COUNTY WEST VIRGINIA

AT A REGULAR SESSION OF THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, CONTINUED AND HELD FOR SAID COUNTY AT THE COURTHOUSE THEREOF ON TUESDAY, THE 13th DAY OF JANUARY, A.D., 1981.

MEMBERS: THE HONORABLE ALFRED L. SHEPARD, PRESIDENT, HENRY C. SHORES AND ROBERT F. SILVERSTEIN, GENTLEMEN COMMISSIONERS OF THE COUNTY.

RE: AN ORDER WHEREBY THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, PROPOSES ON ITS OWN MOTION TO MAINTAIN THE BIG SANDY PUBLIC SERVICE DISTRICT AS TWO SEPARATE ENTITIES, TO BE KNOWN RESPECTIVELY AS THE "BIG SANDY WATER PUBLIC SERVICE DISTRICT" AND THE "BIG SANDY SEWER PUBLIC SERVICE DISTRICT," EACH HAVING THE PURPOSES AND BOUNDARIES HEREINAFTER DESCRIBED; FIXING A DATE FOR THE HEARING OF SAID MOTION; AND PROVIDING FOR THE PUBLICATION OF NOTICE OF SUCH HEARING.

WHEREAS, by an order entered on May 21, 1971 (the "Original Order"), the County Court (now, the County Commission) of Kanawha County, West Virginia (the "County Commission"), created the Big Sandy Public Service District, consisting of an area of 7,500 acres, more or less, within the Big Sandy District of Kanawha County, West Virginia, as follows:

> Beginning at a point on the common boundary of Kanawha County and Roane County, said point being at Latitude N 38° 32' 33", approximately, and Longitude W 81° 22' 30"; thence proceeding approximately 15,400 feet due south on Longitude W 81° 22' 30" to Latitude N 38° 30'; thence proceeding approximately 23,800 feet due east on Latitude N 38° 30' to Longitude W 81° 30"; thence proceeding due north approximately 10,700 feet on Longitude W 81° 17' 30" to a point on the common boundary of Kanawha County and Roane County; thence proceeding in a west northwesterly direction on the said boundary line to the point of beginning

(the "Original District"); and

WHEREAS, the Original Order provided that the Original District was so situated that the construction or acquisition and the maintenance, operation, improvement and extension of properties supplying water or sewerage, or both, therein would be conducive to the preservation of the public health, comfort and convenience of such area; and

WHEREAS, by an order entered on December 5, 1975 (the "1975 Order"), the County Commission expanded the Original District for the purpose of constructing, acquiring, maintaining and improving a public service sewage system within such expanded territory and, also, outside such territory to the extent permitted by law; and

WHEREAS, the territory embraced in the expansion effected by the 1975 Order included the incorporated Town of Clendenin, West Virginia (the "Town"), and was as follows:

> BEGINNING at a point where the northeastern boundary line of the existing Big Sandy Public Service District intersects the Kanawha - Roane County boundary line.
>
> THENCE from the aforesaid point following the Kanawha County - Roane County boundary line in a westerly direction for a distance of approximately 5.68 miles more or less to a point where the Kanawha County - Roane County boundary line intersects W. Va. Sec. Rt. 43.
>
> THENCE from the aforesaid point leaving the Kanawha County - Roane County boundary line in a southerly direction following the center line of W. Va. Sec. Rt. 53/1 to a point where W. Va. Sec. Rt. 53/1 intersects W. Va. Sec. Rt. 43/2.
>
> THENCE from the aforesaid point following W. Va. Sec. Rt. 53/1 in a southeasterly direction for approximately 2,200 feet to a point on the ridge line forming the drainage divide between Bufflick Run and Wills Creek.
>
> THENCE from the aforesaid point continuing along this ridge in a southerly direction to a point where the ridge line intersects a pipeline north of Campbell Branch.
>
> THENCE from the aforesaid point continuing along this pipeline in a southeasterly direction to a point approximately 2,800 feet more or less on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE from the aforesaid point leaving the said pipeline in a southwesterly direction following the ridge line forming the drainage divide between Campbell Branch and Jordan Creek passing through the Rucker Cemetery to a point where (sic) the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE from the aforesaid point continuing along the ridge line forming the drainage divide between Sand Run and Wills Creek to a point where the ridge line intersects a pipeline.

THENCE from the aforesaid point continuing along this pipeline in a southwesterly direction to a point on the ridge forming the drainage divide between Riley Branch and Wills Creek.

THENCE from the aforesaid point leaving said ridge line and pipeline in a southerly direction along the ridge line forming the drainage divide between Riley Branch and Narrow Branch passing through a pipeline to a point on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a southwesterly direction to said point being on the boundary line of the Elk-Pinch Public Service District.

THENCE from the aforesaid point following the Elk-Pinch Public Service District boundary line in a southeasterly direction to a point in the middle of Elk River.

THENCE from the aforesaid point being the common point of the Elk-Pinch Public Service District leaving the Elk River in a southerly direction to a point on the ridge being a common point of the Elk-Pinch Public Service District.

THENCE from the aforesaid point continuing along the Elk-Pinch Public Service District boundary line to a point where the Elk-Pinch Public Service District boundary intersects a pipeline on the ridge line dividing Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point leaving the

common boundary line of the Elk-Pinch Public Service District and following the pipeline in an easterly direction to a point where the pipeline leaves the ridge divide between Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point continuing along this ridge in an easterly direction passing through W. Va. Sec. Rt. 52 to a point on the top of the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point leaving the ridge crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Blue Creek and Lower Three-Mile Fork.

THENCE from the aforesaid point continuing along the ridge in a northerly direction to a point on the ridge.

THENCE from the aforesaid point leaving the ridge in an easterly direction and crossing Blue Creek to a point where Upper Three-Mile Fork branches into Blue Creek.

THENCE from the aforesaid point continuing in a southeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point following a jeep trail in a southwesterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point continuing along said jeep trial in an easterly direction to a point on a ridge forming the drainage divide between Hackberry Branch and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point in a northerly direction following the ridge line passing through the Hayes Cemetery to a point on the ridge approximately 1,500 feet northeast of said cemetery.

THENCE from the aforesaid point in an easterly direction leaving the ridge and crossing Rock Creek to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE from the aforesaid point in an easterly direction following the jeep trail and ridge line forming the drainage divide between Falling Rock Creek and Mudlick Fork to a point where the ridge crosses W. Va. Sec. Rt. 65.

THENCE from the aforesaid point in an easterly direction following the ridge forming the drainage divide between Poplar Hollow and Wolfpen Run to a point where the ridge intersects a pipeline on DuVal Ridge.

THENCE from the aforesaid point following the ridge in an easterly direction that forms the drainage divide between Falling Rock Creek and Morris Creek along W. Va. Sec. Rt. 56 to a point where W. Va. Sec. Rt. 56 intersects W. Va. Sec. Rt. 67.

THENCE from the aforesaid point in an easterly direction following W. Va. Sec. Rt. 67 to the Kanawha County and Clay County line.

THENCE from the aforesaid point in a northerly direction leaving the W. Va. Sec. Rt. 67 and following the Kanawha County - Clay County boundary line to a point in the center of Elk River.

THENCE from the aforesaid point continuing along the Kanawha County - Clay County line in a northeasterly direction to a point common to the Kanawha County - Clay County and Roane County line.

THENCE from the aforesaid point in a westerly direction following the Kanawha County - Roane County boundary to the point of beginning;

and

WHEREAS, by an order entered on June 30, 1976 (the "1976 Order"), the County Commission expanded the Original

District for the purpose of constructing, acquiring, maintaining and improving the public service water system within such expanded territory and, also, outside such territory to the extent permitted by law; and

WHEREAS, the territory embraced in the expansion effected by the 1976 Order did not include the Town or any other incorporated town and was as follows:

BEGINNING at a point in the common boundary line between Kanawha County and Roane County, said point being at latitude N. 38°-32' 33", approximately, and longitude W. 81°-22' 30";

THENCE proceeding approximately 15,400 feet due south on longitude W. 81°-22' 30" to latitude N. 38°-30' 00";

THENCE proceeding approximately 7,500 feet due east on latitude N. 38°-30' 00" to the west bank of Big Sandy Creek;

THENCE proceeding in a southerly and a southwesterly direction along the west bank of Big Sandy Creek for approximately 3,100 feet to the Clendenin City line;

THENCE proceeding in an easterly, then southerly, direction along the Clendenin City line for approximately 7,700 feet to the intersection of the Clendenin City line and the south bank of Elk River;

THENCE proceeding in a southeasterly direction along the south bank of Elk River, with its meanders, for a distance of approximately 16,000 feet to the intersection of the south bank of the Elk River and the Kanawha County and Clay County boundary line;

THENCE proceeding northeast along the Kanawha County and Clay County boundary line for approximately 32,700 feet to the point where the boundary lines of Kanawha County, Clay County and Roane County intersect, and said point being also the eastern-most point of Big Sandy District of Kanawha County;

THENCE proceeding randomly westward along the common boundary line between Kanawha County and Roane County for approximately 53,410 feet to the point of beginning, enclosing an area of approximately 25.62 square miles;

and

WHEREAS, the powers of the Big Sandy Public Service District are vested in and exercised by a public service board consisting of four members, being Fred E. Smith, D. C. Wingate, Charles G. Lynch and Patricia Haye, with Mr. Lynch acting only with respect to the water properties of the Original District, as expanded by the 1976 Order, and Ms. Haye, who resides within the Town, acting only with respect to the sewerage properties of the Original District, as expanded by the 1975 Order; and

WHEREAS, it is necessary, feasible and proper in the interest of clarity and for the preservation of the public health, comfort and convenience, and it is in the best interests of the residents of the Original District, as expanded both by the 1975 Order and by the 1976 Order, that the Big Sandy Public Service District be hereafter maintained as two separate entities, to be known respectively as the "Big Sandy Water Public Service District" and the "Big Sandy Sewer Public Service District," each having the purposes and boundaries hereinafter described; and

WHEREAS, in accordance with Chapter 16, Article 13A, Section 2, of the West Virginia Code, 1931, as amended (the "Act"), the County Commission by its own motion and by this order duly adopted and entered proposes the maintenance of the Big Sandy Public Service District as two separate entities and fixes a date for the hearing of said motion and provides for the publication of notice of such hearing;

NOW, THEREFORE, be it resolved and ordered by The County Commission of Kanawha County, West Virginia, as follows:

Section 1. The County Commission does declare and find the following matters and things to be suitable, proper and in accordance with the Act, and does hereby propose the following:

a. The Big Sandy Public Service District shall be maintained as two separate entities, to be known respectively as the "Big Sandy Water Public Service District" (the "Water District") and the "Big Sandy Sewer Public Service District" (the "Sewer District").

b. The Water District shall embrace the territory embraced by the Original District as expanded by the 1976 Order and shall have the purpose of constructing or acquiring by purchase or otherwise and maintaining, operating, improving and extending public service properties supplying water services within its territory and, also, outside its territory to the extent permitted by law, as is conducive to the preservation of the public health, comfort and convenience of such area.

c. The Sewer District shall embrace the territory embraced by the Original District as expanded by the 1975 Order and shall have the purpose of constructing or acquiring by purchase or otherwise and maintaining, operating, improving and extending public service properties supplying sewerage services within its territory and, also, outside its territory to the extent permitted by law, as will be conducive to the preservation of the public health, comfort and convenience of such area.

d. With no further action's being necessary to effect such, all rights, permits, obligations, agreements, contracts, covenants and other interests of the Big Sandy Public Service District pertaining to water services or public service properties supplying water services, including any outstanding water revenue bonds, shall be those of the Water District, and all rights, permits, obligations, agreements, contracts, covenants and other interests of the Big Sandy Public Service District pertaining to sewerage services or public service properties supplying sewerage services, including any outstanding sewer revenue bonds and any rights or permits received, obligations or covenants made or agreements or contracts entered with respect to any contemplated issue of sewer revenue bonds, shall be those of the Sewer District.

e. Part of the same territory shall be included within the boundaries of both the Water District and the Sewer District, but the Water District shall be organized to supply water services not being furnished by the Sewer District within such part of the Sewer District included therein, and the Sewer District shall be organized to supply sewerage services not being furnished by the Water District within such part of the Water District included therein.

f. The Town shall be included within the boundaries of the Sewer District, and the resolution adopted by the governing body of the Town with respect to the expansion of the Original District effected by the 1975 Order shall be deemed consent to its inclusion in the Sewer District.

g. Mr. Smith and Mr. Wingate shall serve on the public service boards of both the Water District and the Sewer District; Mr. Lynch shall serve on the public service board of the Water District; and Ms. Haye shall serve on the public service board of the Sewer District; each to serve the respective term designated in the order of the County Commission appointing him or her to the public service board of the Big Sandy Public Service District.

Section 2. On the 19TH day of FEBRUARY, 1981, being a day in the regular session of the County Commission, and more than forty (40) days but not less than twenty (20) days from the date hereof, at NINE o'clock (9:00) A.m., Eastern Standard Time, in the County Commission room of the Kanawha County Courthouse, this Commission will conduct a public hearing on the maintenance of the Big Sandy Public Service District as two separate entities, to be known respectively as the "Big Sandy Water Public Service District" and the "Big Sandy Sewer Public Service District," each having the purposes and boundaries hereinbefore described, at which time and place all persons residing in or owning or having any interest in property in the proposed Water District or the proposed Sewer District may appear before the County Commission and shall have an opportunity to be heard for or against the maintenance of the Big Sandy Public Service District as such two separate entities. At such public hearing, the County Commission shall consider and determine the feasibility of the maintenance of the Big Sandy Public Service District as such two separate entites and whether said maintenance will be conducive to the preservation of the public health, comfort and convenience of such areas.

Section 3. The Clerk of the County Commission is hereby ordered and directed to cause notice of such hearing and the time and place thereof to be given by publication of this order. This order shall be published in either the Charleston Gazette or the Charleston Daily Mail, newspapers of general circulation published in Kanawha County, West Virginia, as a Class I legal advertisement in compliance

with the provisions of Chapter 59, Article 3, of the West Virginia Code, 1931, as amended. In addition, the Clerk of the County Commission is hereby ordered and directed to cause notice of such hearing to be given by posting this order in at least five (5) conspicuous places in both the Water District and the Sewer District. Said publication and posting of this order must be made not less than ten (10) days prior to the date for the public hearing set forth above and shall constitute the notice prescribed by the Act.

Adopted and entered this 12th day of January, 1981.

TESTE:

THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

President

Commissioner

Commissioner

APPROVED BY:

County Attorney

1/16 Sandra K. Elliott

AT A REGULAR SESSION OF THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA, CONTINUED AND HELD FOR SAID COUNTY AT THE COURTHOUSE THEREOF ON THURSDAY THE 19th DAY OF FEBRUARY, A.D., 1981.

MEMBERS: THE HONORABLE ALFRED L. SHEPARD, PRESIDENT, HENRY C. SHORES AND ROBERT F. SILVERSTEIN, GENTLEMEN COMMISSIONERS OF THE COUNTY.

RE: AN ORDER MAINTAINING THE BIG SANDY PUBLIC SERVICE DISTRICT AS TWO SEPARATE ENTITIES, TO BE KNOWN RESPECTIVELY AS THE "BIG SANDY WATER PUBLIC SERVICE DISTRICT" AND THE "BIG SANDY SEWER PUBLIC SERVICE DISTRICT," EACH HAVING THE PURPOSES AND BOUNDARIES HEREINAFTER DESCRIBED.

WHEREAS, The County Commission of Kanawha County, West Virginia, by an order adopted on the 15th day of January, 1981, fixed the date for a public hearing on the proposed maintenance of the Big Sandy Public Service District as two separate entities, to be known respectively as the "Big Sandy Water Public Service District" and the "Big Sandy Sewer Public Service District," and in and by said order provided that all persons residing in or owning or having any interest in property in the proposed Big Sandy Water Public Service District or the proposed Big Sandy Sewer Public Service District might appear before the County Commission at this meeting and have an opportunity to be heard for or against the maintenance of the Big Sandy Public Service District as such two separate entities; and,

WHEREAS, notice of this hearing and the time and place hereof was duly given in the manner provided and required by said order and by Article 13A of Chapter 16 of the West Virginia Code, 1931, as amended, and all interested persons have been afforded an opportunity of being heard for or against the maintenance of the Big Sandy Public Service District as such two separate entities, but no written protest has been filed by the requisite number of qualified voters registered and residing within said Big Sandy Public Service District or said proposed Big Sandy Water Public Service District or said Big Sandy Sewer Public Service District, and the County Commission has given due consideration to all matters for which such hearing was offered; and,

WHEREAS, said hearing was held at the time and place stated in said order of January 15, 1981, being on February 19, 1981 at 9:00 a.m., E.S.T., in the County Commission room of the Kanawha County Courthouse, and the County

Commission considered the question of maintaining the Big Sandy Public Service District as such two separate entities; and,

WHEREAS, it is now deemed necessary, feasible and proper in the interest of clarity and for the preservation of the public health, comfort and convenience, and is in the best interests of the residents of the Big Sandy Public Service District and suitable, proper and in accordance with Article 13A of Chapter 16 of the West Virginia Code, 1931, as amended, for the County Commission to enter this order maintaining said Big Sandy Public Service District as two separate entities, to be known respectively as the "Big Sandy Water Public Service District" and the "Big Sandy Sewer Public Service District," each having the purposes and boundaries hereinafter described;

NOW, THEREFORE, be it resolved and ordered by the County Commission of Kanawha County, West Virginia, as follows:

Section 1. The Big Sandy Public Service District shall be maintained as two separate entities, to be known respectively as the "Big Sandy Water Public Service District" (the "Water District") and the "Big Sandy Sewer Public Service District" (the "Sewer District").

Section 2. The Water District shall embrace the territory embraced by the Big Sandy Public Service District, created by an order of the County Court (now, the County Commission) of Kanawha County, West Virginia (the "County Commission"), entered on May 21, 1971 (the "Original Order"), consisting of an area of 7,500 acres, more or less, within the Big Sandy District of Kanawha County, West Virginia, with boundaries as follows:

> Beginning at a point on the common boundary of Kanawha County and Roane County, said point being at Latitude N 38° 32' 33", approximately, and Longitude W 81° 22' 30"; thence proceeding approximately 15,400 feet due south on Longitude W 81° 22' 30" to Latitude N 38° 30'; thence proceeding approximately 23,800 feet due east on Latitude N 38° 30' to Longitude W 81° 30"; thence proceeding due north approximately 10,700 feet on Longitude W 81° 17' 30" to a point on the common boundary of Kanawha County and Roane County; thence proceeding in a west northwesterly direction on the said boundary line to the point of beginning

(the "Original District"), as expanded by an order of the County Commission entered on June 30, 1976 (the "1976 Order"), with boundaries as follows:

> BEGINNING at a point in the common boundary line between Kanawha County and Roane County, said point being at latitude N. 38°-32' 33", approximately, and longitude W. 81°-22' 30";
>
> THENCE proceeding approximately 15,400 feet due south on longitude W. 81°-22' 30" to latitude N. 38°-30' 00";
>
> THENCE proceeding approximately 7,500 feet due east on latitude N. 38°-30' 00" to the west bank of Big Sandy Creek;
>
> THENCE proceeding in a southerly and a southwesterly direction along the west bank of Big Sandy Creek for approximately 3,100 feet to the Clendenin City line;
>
> THENCE proceeding in an easterly, then southerly, direction along the Clendenin City line for approximately 7,700 feet to the intersection of the Clendenin City line and the south bank of Elk River;
>
> THENCE proceeding in a southeasterly direction along the south bank of Elk River, with its meanders, for a distance of approximately 16,000 feet to the intersection of the south bank of the Elk River and the Kanawha County and Clay County boundary line;
>
> THENCE proceeding northeast along the Kanawha County and Clay County boundary line for approximately 32,700 feet to the point where the boundary lines of Kanawha County, Clay County and Roane County intersect, and said point being also the eastern-most point of Big Sandy District of Kanawha County;
>
> THENCE proceeding randomly westward along the common boundary line between Kanawha County and Roane County for approximately 53,410 feet to the point of beginning, enclosing an area of approximately 25.62 square miles,

which expansion did not include the incorporated Town of Clendenin, West Virginia (the "Town"), or any other incorporated town or municipality;

Section 3. The Water District shall have the purpose of constructing or acquiring by purchase or otherwise and maintaining, operating, improving and extending public service properties supplying water services within its territory and, also, outside its territory to the extent permitted by law, as is conducive to the preservation of the public health, comfort and convenience of such area.

Section 4. The Sewer District shall embrace the territory embraced by the Original District as expanded by an order of the County Commission entered on December 5, 1975 (the "1975 Order"), which expansion included the Town, with boundaries as follows:

> BEGINNING at a point where the northeastern boundary line of the existing Big Sandy Public Service District intersects the Kanawha - Roane County boundary line.
>
> THENCE from the aforesaid point following the Kanawha County - Roane County boundary line in a westerly direction for a distance of approximately 5.68 miles more or less to a point where the Kanawha County - Roane County boundary line intersects W. Va. Sec. Rt. 43.
>
> THENCE from the aforesaid point leaving the Kanawha County - Roane County boundary line in a southerly direction following the center line of W. Va. Sec. Rt. 53/1 to a point where W. Va. Sec. Rt. 53/1 intersects W. Va. Sec. Rt. 43/2.
>
> THENCE from the aforesaid point following W. Va. Sec. Rt. 53/1 in a southeasterly direction for approximately 2,200 feet to a point on the ridge line forming the drainage divide between Bufflick Run and Wills Creek.
>
> THENCE from the aforesaid point continuing along this ridge in a southerly direction to a point where the ridge line intersects a pipeline north of Campbell Branch.
>
> THENCE from the aforesaid point continuing along this pipeline in a southeasterly direction

to a point approximately 2,800 feet more or less on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE from the aforesaid point leaving the said pipeline in a southwesterly direction following the ridge line forming the drainage divide between Campbell Branch and Jordan Creek passing through the Rucker Cemetery to a point where (sic) the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE from the aforesaid point continuing along the ridge line forming the drainage divide between Sand Run and Wills Creek to a point where the ridge line intersects a pipeline.

THENCE from the aforesaid point continuing along this pipeline in a southwesterly direction to a point on the ridge forming the drainage divide between Riley Branch and Wills Creek.

THENCE from the aforesaid point leaving said ridge line and pipeline in a southerly direction along the ridge line forming the drainage divide between Riley Branch and Narrow Branch passing through a pipeline to a point on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a southwesterly direction to said point being on the boundary line of the Elk-Pinch Public Service District.

THENCE from the aforesaid point following the Elk-Pinch Public Service District boundary line in a southeasterly direction to a point in the middle of Elk River.

THENCE from the aforesaid point being the common point of the Elk-Pinch Public Service District leaving the Elk River in a southerly direction to a point on the ridge being a common point of the Elk-Pinch Public Service District.

THENCE from the aforesaid point continuing along the Elk-Pinch Public Service District boundary line to a point where the Elk-Pinch Public Service District boundary intersects a pipeline on the ridge line dividing Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point leaving the common boundary line of the Elk-Pinch Public Service District and following the pipeline in an easterly direction to a point where the pipeline leaves the ridge divide between Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point continuing along this ridge in an easterly direction passing through W. Va. Sec. Rt. 52 to a point on the top of the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point leaving the ridge crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Blue Creek and Lower Three-Mile Fork.

THENCE from the aforesaid point continuing along the ridge in a northerly direction to a point on the ridge.

THENCE from the aforesaid point leaving the ridge in an easterly direction and crossing Blue Creek to a point where Upper Three-Mile Fork branches into Blue Creek.

THENCE from the aforesaid point continuing in a southeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point following a jeep trail in a southwesterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point continuing along said jeep trail in an easterly direction to a point on a ridge forming the drainage divide between Hackberry Branch and Right Fork of Upper Three-Mile Fork.

THENCE from the aforesaid point in a northerly direction following the ridge line passing through the Hayes Cemetery to a point on the ridge approximately 1,500 feet northeast of said cemetery.

THENCE from the aforesaid point in an easterly direction leaving the ridge and crossing Rock Creek to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE from the aforesaid point in an easterly direction following the jeep trail and ridge line forming the drainage divide between Falling Rock Creek and Mudlick Fork to a point where the ridge crosses W. Va. Sec. Rt. 65.

THENCE from the aforesaid point in an easterly direction following the ridge forming the drainage divide between Poplar Hollow and Wolfpen Run to a point where the ridge intersects a pipeline on DuVal Ridge.

THENCE from the aforesaid point following the ridge in an easterly direction that forms the drainage divide between Falling Rock Creek and Morris Creek along W. Va. Sec. Rt. 56 to a point where W. Va. Sec. Rt. 56 intersects W. Va. Sec. Rt. 67.

THENCE from the aforesaid point in an easterly direction following W. Va. Sec. Rt. 67 to the Kanawha County and Clay County line.

THENCE from the aforesaid point in a northerly direction leaving the W. Va. Sec. Rt. 67 and following the Kanawha County - Clay County boundary line to a point in the center of Elk River.

THENCE from the aforesaid point continuing along the Kanawha County - Clay County line in a northeasterly direction to a point common to the Kanawha County - Clay County and Roane County line.

THENCE from the aforesaid point in a westerly direction following the Kanawha County - Roane County boundary to the point of beginning;

Section 5. With no further action's being necessary to effect such, all rights, permits, obligations, agreements, contracts, covenants and other interests of the Big Sandy Public Service District pertaining to water services or public service properties supplying water services, including

any outstanding water revenue bonds, shall be those of the Water District, and all rights, permits, obligations, agreements, contracts, covenants and other interests of the Big Sandy Public Service District pertaining to sewerage services or public service properties supplying sewerage services, including any outstanding sewer revenue bonds and any rights or permits received, obligations or covenants made or agreements or contracts entered with respect to any contemplated issue of sewer revenue bonds, shall be those of the Sewer District.

Section 6. Part of the same territory shall be included within the boundaries of both the Water District and the Sewer District, but the Water District shall be organized to supply water services not being furnished by the Sewer District within such part of the Sewer District included therein, and the Sewer District shall be organized to supply sewerage services not being furnished by the Water District within such part of the Water District included therein.

Section 7. The Town shall be included within the boundaries of the Sewer District, and the resolution adopted by the governing body of the Town with respect to the expansion of the Original District effected by the 1975 Order shall be deemed consent to its inclusion in the Sewer District.

Section 8. Mr. Fred E. Smith and Mr. D. C. Wingate shall serve on the public service boards of both the Water District and the Sewer District; Mr. Charles G. Lynch shall serve on the public service board of the Water District; and Ms. Patricia Haye shall serve on the public service board of the Sewer District; each to serve the respective term designated in the order of the County Commission appointing him or her to the public service board of the Big Sandy Public Service District.

Adopted and entered this 19th day of February, 1981.

TESTE:

THE COUNTY COMMISSION OF KANAWHA COUNTY, WEST VIRGINIA

_____

President

_____
Commissioner

_____
Commissioner

APPROVED BY:

_____
County Attorney

CONSOLIDATION OF ELK-PINCH SEWER DISTRICT

At a regular Session of the County Commission of Kanawha County, West Virginia, continued and held for said County at the Courthouse thereof on Tuesday, , the 8th day of May 1979.

PRESENT: Honorable Henry C. Shores, President; Robert F. Silverstein, and Alfred Shepard, Gentlemen Commissioners.

RE: An order whereby the County Commission of Kanawha County, West Virginia, proposes on its own motion to consolidate and enlarge the PINCH PUBLIC SERVICE DISTRICT and ELK PUBLIC SERVICE DISTRICT in District I and IV, Kanawha County, West Virginia, and to create a public service district for the purpose of acquiring, constructing, operating, maintaining and improving the public sewer system and fixing a date for hearing said motion, the appointment of Commissioners, and providing for the publication of notice of such hearing.

WHEREAS, there has heretofore been created a public service district known as the Pinch Public Service District by the Court for the purpose of providing water and sewer service in the area of Pinch, in District I, Pinch, Kanawha County; and,

WHEREAS, there has heretofore been created a public service districts known as the Elk Public Service District by this Court for the purpose of providing water and sewer service in the area of Knollwood and District IV, Kanawha County; and,

of North 513,974.9 and East 1,840,526.8; thence N. 64° 39' 39" E., 1,801.5 feet to a point having a coordinate of North 514,745.9 and East 1,842,155.0; thence N. 61° 09' 50" E., 3302.8 feet across Coopers Creek to a point having a coordinate of North 516,338.9 and East 1,845,048.3; thence N. 04° 51' 22" E., 2,001.0 feet to a point having a coordinate of North 518,332.7 and East 1,845,217.7; thence N. 57° 01' 02" E., 2,402.1 feet to a point having a coordinate of North 519,640.4 and East 1,847,232.6; thence S. 76° 26' 07" E., 2,201.3 feet to a point having a coordinate of North 519,124.1 and East 1,849,372.5; thence N. 86° 46' 34" E., 3,352.5 feet to a point having a coordinate of North 519,312.6 and East 1,852,719.8; thence N. 74° 55' 08" E., 4,003.3 feet across Little Sandy Creek to a point having a coordinate of North 520,354.2 and East 1,856,585.2; thence N. 56° 24' 04" E., 1,301.1 feet to a point having a coordinate of North 521,074.2 and East 1,857,668.9; thence N. 11° 14' 09" E., 1,801.1 feet to a point having a coordinate of North 522,840.8 and East 1,858,019.9; thence N. 39° 59' 04" W., 2099.8 feet to a point having a coordinate of North 524,449.6 and East 1,856,670.6; thence N. 31° 32' 19" E., 2802.2 to a point having a coordinate of North 526,837.9 and East 1,858,136.3; thence N. 36° 47' 04" E., 3,803.1 feet to a point having a coordinate of North 529,883.7 and East 1,860,413.6; thence N. 28° 56' 26" E., 1,200.9 feet to a point having a coordinate of North 530,934.7 and East 1,860,994.7; thence N. 79° 39' 54" E., 3,352.7 feet to a point having a coordinate of North 531,536.2 and East 1,864,293.0; thence N. 84° 26' 40" E., 3,853.0 feet to a point having a coordinate of North 531,909.2 and East 1,868,127.9; thence S. 06° 52' 42" W., 2,248.8 feet to a point having a coordinate of North 529,676.6 and East 1,867,858.6; thence S. 11° 16' 51" W., 4,597.3 feet across Elk River to a point having a coordinate of North 525,168.1 and East 1,866,959.2; thence S. 33° 35' 47" W., 3,896.9 feet to a point having a coordinate of North 521,922.1 and East 1,864,802.9; thence S. 56° 44' 41" E., 4,501.6 feet to a point having a coordinate of North 519,453.6 and East 1,868,567.3; thence S. 02° 37' 34" E., 4,098.3 feet to a point having a coordinate of North 515,359.6 and East 1,868,755.1; thence S. 08° 20' 42" E., 2,749.0 feet to a point having a coordinate of North 512,639.7 and East 1,869,154.1; thence S. 11° 22' 51" W., 2,698.4 feet to a point having a coordinate of North 509,994.4 and East 1,868,621.6; thence S. 57° 29'

NOW, THEREFORE, on the Commission's own motion, it is hereby ORDERED by the County Commission of Kanawha County, West Virginia, as follows:

Section I. That the County Commission of Kanawha County, finds and declares that it is in all respects necessary, feasible and proper for the County Commission on its own motion to propose the consolidation and enlargement of said Elk Public Service District and Pinch Public Service District and creation of Elk-Pinch Joint Public Service District. Whereupon, the Commission's motion proposing and enlarging and creating the said Elk-Pinch Joint Public Service District for the purposes of a sewer collection system was duly made and seconded and carried.

Section II. The County Commission of Kanawha County does declare and find the following matters and things to be suitable, proper and in accordance with Chapter 16, Article 13A, of the Code of West Virginia:

A. The name and corporate title of said public service district is "ELK-PINCH JOINT PUBLIC SERVICE DISTRICT."

B. The territory to embrace said Elk-Pinch Joint Public Service District shall be as follows:

> BEGINNING at the center line of U.S. Route 119 near the City of Charleston City Limits, which point has a coordinate of North 498,220.1 and East 1,824,789.4; thence N. 06° 47' 18" E, 3,501.9 feet to a point having a coordinate of North 501,697.4 and East 1,825,203.3; thence N. 55° 25' 17" E., 4,998.3 feet to a point having a coordinate of North 504,534.1 and East 1,821,088.0; thence N. 38° 29' 59" E., 5,004.1 feet to a point having a coordinate of North 508,450.4 and East 1,824,203.1; thence N. 44° 21' 41" E., 4,653.9 feet to a point

having a coordinate of North 511,777.6 and East 1,827,457.0; thence N. 34° 52' 09" E., 1,901.5 feet to a point having a coordinate of North 513,337.7 and East 1,828,544.1; thence S. 79° 08' 01" E., 900.6 feet to a point having a coordinate of North 513,168.0 and East 1,829,428.5; thence N. 18° 34' 52" E., 2,551.7 feet to a point having a coordinate of North 515,586.7 and East 1,830,241.6; thence S. 49° 03' 50" E., 2,600.6 feet to a point having a coordinate of North 513,882.7 and East 1,832,206.2; thence S. 42° 54' 54" E., 2,300.4 feet to a point having a coordinate of North 512,198.0 and East 1,833,772.6; thence S. 86° 21' 44" E., 3,452.4 feet to a point having a coordinate of North 511,978.9 and East 1,837,218.0; thence S. 89° 23' 36" E., 2,101.5 feet to a point having a coordinate of North 511,956.7 and East 1,839,319.4, said point being near the United States Geological Survey point labeled "Crede"; thence N. 30° 53' 20" E., 2,351.8 feet to a point having a coordinate of North 513,974.9 and East 1,840,526.8; thence N. 64° 39' 39" E., 1,801.5 feet to a point having a coordinate of North 514,745.9 and East 1,842,155.0; thence N. 61° 09' 50" E., 3302.8 feet across Coopers Creek to a point having a coordinate of North 516,338.9 and East 1,845,048.3; thence N. 04° 51' 22" E., 2,001.0 feet to a point having a coordinate of North 518,332.7 and East 1,845,217.7; thence N. 57° 01' 02" E., 2,402.1 feet to a point having a coordinate of North 519,640.4 and East 1,847,232.6; thence S. 76° 26' 07" E., 2,201.3 feet to a point having a coordinate of North 519,124.1 and East 1,849,372.5; thence N. 86° 46' 34" E., 3,352.5 feet to a point having a coordinate of North 519,312.6 and East 1,852,719.8; thence N. 74° 55' 08" E., 4,003.3 feet across Little Sandy Creek to a point having a coordinate of North 520,354.2 and East 1,856,585.2; thence N. 56° 24' 04" E., 1,301.1 feet to a point having a coordinate of North 521,074.2 and East 1,857,668.9; thence N. 11° 14' 09" E., 1,801.1 feet to a point having a coordinate of North 522,840.8 and East 1,858,019.9; thence N. 39° 59' 04" W., 2099.8 feet to a point having a coordinate of North 524,449.6 and East 1,856,670.6; thence N. 31° 32' 19" E., 2802.2 to a point having a coordinate of North 526,837.9 and East 1,858,136.3; thence N. 36° 47' 04" E., 3,803.1 feet to a point having a coordinate of North 529,883.7 and East 1,860,413.6; thence N. 28° 56' 26" E., 1,200.9 feet to a point having a coordinate of North 530,934.7 and East 1,860,994.7; thence N. 79° 39' 54" E., 3,352.7 feet to a point having a coordinate of North 531,536.2 and East 1,864,293.0;

thence N. 84° 26' 40" E., 3,853.0 feet to a point having a coordinate of North 531,909.2 and East 1,868,127.9; thence S. 06° 52' 42" W., 2,248.8 feet to a point having a coordinate of North 529,676.6 and East 1,867,858.6; thence S. 11° 16' 51" W., 4,597.3 feet across Elk River to a point having a coordinate of North 525,168.1 and East 1,866,959.2; thence S. 33° 35' 47" W., 3,896.9 feet to a point having a coordinate of North 521,922.1 and East 1,864,802.9; thence S. 56° 44' 41" E., 4,501.6 feet to a point having a coordinate of North 519,453.6 and East 1,868,567.3; thence S. 02° 37' 34" E., 4,098.3 feet to a point having a coordinate of North 515,359.6 and East 1,868,755.1; thence S. 08° 20' 42" E., 2,749.0 feet to a point having a coordinate of North 512,639.7 and East 1,869,154.1; thence S. 11° 22' 51" W., 2,698.4 feet to a point having a coordinate of North 509,994.4 and East 1,868,621.6; thence S. 57° 29' 59" W., 1,898.4 feet to a point having a coordinate of North 508,974.4 and East 1,867,020.6; thence S. 23° 11' 19" W., 2,897.9 feet across Indian Creek to a point having a coordinate of North 506,310.5 and East 1,865,879.5; thence S. 60° 20' 08" W., 3,646.9 feet to a point having a coordinate of North 504,505.6 and East 1,862,710.6; thence S. 75° 23' 54" W., 3,047.5 feet to a point having a coordinate of North 503,737.4 and East 1,859,761.5; thence N. 37° 14' 03" W., 5,999.5 feet to a point having a coordinate of North 508,514.0 and East 1,856,131.3; thence N. 62° 48' 27" W., 2,498.9 feet to a point having a coordinate of North 509,656.0 and East 1,853,908.6; thence S. 88° 07' 30" W., 5,246.1 feet to a point having a coordinate of North 509,484.3 and East 1,848,665.3; thence S. 53° 59' 48" W. 1,598.6 feet to a point having a coordinate of North 508,544.6 and East 1,847,372.1; thence N. 82° 09' 06" W., 3,497.7 feet to a point near the United States Geologic Survey point labeled "Milliken" having a coordinate of North 509,022.2 and East 1,843,907.1; thence S. 65° 13' 23" W., 2,697.7 feet to a point having a coordinate of North 507,891.6 and East 1,841,457.8; thence S. 21° 58' 16" W., 3,097.8 feet to a point having a coordinate of North 505,018.8 and East 1,840,298.7; thence S. 16° 42' 03" W., 2998.1 feet to a point having a coordinate of North 502,147.2 and East 1,839,437.2; thence S. 63° 01' 16" W., 3,297.2 feet to a point having a coordinate of North 500,651.4 and East 1,836,498.8; thence N. 72° 46' 45" W., 2,498.6 feet across U. S. Route 114 to a point having a coordinate of North 501,391.1 and

East 1,834,112.2; thence N. 42° 39' 05" W., 3,299.5 feet to a point near Kanawha Airport having a coordinate of North 503,817.8 and East 1,831,876.7; thence S. 54° 27' 50" W., 4,196.5 feet to another point near Kanawha Airport having a coordinate of North 501,378.8 and East 1,828,461.9; thence S. 33° 37' 47" W., 2,897.7 feet to a point having a coordinate of North 498,966.1 and East 1,826,857.1; thence S. 70° 09' 38" W., 2,198.2 feet across Elk River to the point of beginning. The above described boundary contains a total area of 21.6 square miles.

C. The purpose of said public service district shall be to construct, acquire, maintain and improve a public sewerage system only within such territory and also outside of such territory to the extent permitted by law.

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

E. This resolution does not change the original identity and/or areas of the Elk Public Service District and Pinch Public Service District for the purpose of construction, acquiring, maintaining and improving public water systems only within such territories and also outside such territories to the extent permitted by law.

Section III. That on the 8th day of May, 1979, being a day in the regular session of this court, at 10:00 o'clock a.m., Eastern Daylight Savings Time, on said day in the County Courtroom at said Courthouse, this Commission will conduct a public hearing on the consolidation and enlargement of the proposed joint public service district for the purpose of considering and determining the

feasibility thereof and to consider and determine if the enlarging of the said public service district will be constructive to the preservation of the public health, comfort and convenience of the residents of the said area, and for the appointment of commissioners, 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 before this County Commission and shall have the opportunity to be heard for or against the consolidation and enlargement of the said public service district.

Section IV. The Clerk of this Commission is hereby ORDERED and directed to cause notice of such meeting and hearing be given by publication of this order so shall be published in The Charleston Gazette and the Charleston Daily Mail, newspapers of general circulation published in Kanawha County, as a Class I legal advertisement in compliance with the provisions of Chapter 59, Article III of the official Code of West Virginia, 1931, as amended. It is, further, ORDERED that notice of this proposed hearing be posted in at least five conspicious places within the territory proposed to be enlarged.

Dated, this 8th day of May, 1979.

Presented By:

John N. Charnock, Jr.
307 Peoples Building
P. O. Box 207
Charleston, WV 25321

Inspected and Approved By:

County Attorney
Commerce Square
Charleston, WV 25301

I, Margaret D. Miller, do hereby certify that this is a true copy from the record.
Teste: MARGARET D. MILLER, Clerk
Kanawha County Commission
3/23/82 By Daisy E. Risner
Deputy

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 15th day of May, 1979, the following order was made and entered:

SUBJECT: CONSOLIDATION OF ELK-PINCH SEWER DISTRICT - CORRECTION OF ORDER ENTERED MAY 8, 1979

The following motion was offered by Henry C. Shores, President

WHEREAS, the County Commission of Kanawha County, West Virginia, entered an order on Tuesday, the 8th day of May, 1979, in regard to consolidation of Elk-Pinch Sewer District; and

WHEREAS, the aforesaid order contained an error in regard to the date upon which the Commission will conduct a public hearing on the consolidation and enlargement of said public service district.

It is hereby ORDERED that the County Commission of Kanawha County, West Virginia, will on the 12th day of June, 1979, being a day of the regular session of the Commission, at 10:00 a.m. Eastern Daylight Savings Time, on said day in the County Courtroom at the Courthouse, conduct a public hearing on the consolidation and enlargement of the proposed joint public service district for the purpose of considering and determining the feasibility thereof and consider and determine if the enlarging of said public service district will be constructed to the preservation of the public health, comfort, and convenience of the residents of said area, and for the appointment of commissioners, at which time and place all persons residing in or owning or having an interest in the property in the proposed public service district may appear before this County Commission and have the opportunity to be heard for or against the consolidation and enlargement of this public service district.

The County Commission, having found that the notice of public hearing as heretofore ordered by the Commission properly set forth the date of said hearing on the 12th day of June, 1979, and finding

that the aforesaid order entered on the 8th day of May, 1979, was in error, does order that this order correcting the date of the said public hearing shall be entered nunc pro tunc as of May 8, 1979.

The adoption of the foregoing motion having been moved by Henry C. Shores, President, and duly seconded by Robert F. Silverstein, Commissioner, the vote thereon was as follows:

Henry C. Shores Aye

Alfred L. Shepard Absent

Robert F. Silverstein Aye

Whereupon, Henry C. Shores, President, declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

Henry C. Shores, President

Alfred L. Shepard, Commissioner

Robert F. Silverstein, Commissioner

Approved by: County Attorney

I, Margaret D. Miller, do hereby certify that this is a true copy from the record.
Teste: MARGARET D. MILLER, Clerk
Kanawha County Commission
Date By Deputy

At a regular session of the County Commission of Kanawha County, West Virginia, continued and held for said County at the Courthouse thereof on Tuesday, the 12th day of June, 1979.

PRESENT: Honorable Henry C. Shores, President, and Robert F. Silverstein, Gentlemen Commissioner.

RE: An order whereby the County Commission of Kanawha County, West Virginia, proposes on its own motion to consolidate and enlarge the PINCH PUBLIC SERVICE DISTRICT and the ELK PUBLIC SERVICE DISTRICT in Districts I and IV, Kanawha County, West Virginia, and to create a public service district for the purpose of acquiring, constructing, operating, maintaining and improving the public sewer system and fixing a date for hearing said motion, the appointment of Commissioners, and providing for the publication of notice of such hearing.

This cause came on again to be heard upon the motion of the Commission to consolidate the Pinch Public Service District and the Elk Public Service District, previously established by order of the Commission for the purpose of acquiring, constructing, operating, maintaining and improving the public sewer system, and for the appointment of commissioners, as provided for in Article 13A of Chapter 16 of the Code of West Virginia, as amended, upon notice of hearing and protest duly published and posted according to law, at which hearing held on the 12th day of June, 1979, no protestants appeared, from all of which it appears and the Commission so finds that all

necessary requirements of the law with reference to the consolidation of said public sewer district has been complied with. And it appearing that in order to construct a public sewer system to serve both areas of Kanawha County now served by the Pinch Public Service District and the Elk Public Service District, it is deemed feasable and necessary to consolidate both districts into one Public Service District for sewer purposes only.

It is, therefore, ORDERED that the Pinch Public Service District and the Elk Public Service District are consolidated into one public service district to be known as Elk-Pinch Public Service District for sewer purposes only.

It is further ORDERED that, under and by virtue of the authority vested in the Commission by Article 13A of Chapter 16 of the Code of West Virginia, as amended, the Court hereby enlarges the Elk-Pinch Public Service District to embrace the following more particularly described area:

> BEGINNING at the center line of U.S. Route 119 near the City of Charleston City Limits, which point has a coordinate of North 498,220.1 and East 1,824,789.4; thence N. 06° 47' 18" E, 3,501.9 feet to a point having a coordinate of North 501,697.4 and East 1,825,203.3; thence N. 55° 25' 17" E., 4,998.3 feet to a point having a coordinate of North 504,534.1 and East 1,821,088.0; thence N. 38° 29' 59" E., 5,004.1 feet to a point having a coordinate of North 508,450.4 and East 1,824,203.1; thence N. 44° 21' 41" E., 4,653.9 feet to a point having a coordinate of North 511,777.6 and East 1,827,457.0; thence N. 34° 52' 09" E., 1,901.5 feet to a point having a coordinate of North 513,337.7 and East 1,828,544.1; thence S. 79° 08' 01" E., 900.6 feet to a point having a coordinate of North 513,168.0 and East 1,829,428.5; thence N.

18° 34' 52" E., 2,551.7 feet to a point having a coordinate of North 515,586.7 and East 1,830,241.6; thence S. 49° 03' 50" E., 2,600.6 feet to a point having a coordinate of North 513,882.7 and East 1,832,206.2; thence S. 42° 54' 54" E., 2,300.4 feet to a point having a coordinate of North 512,198.0 and East 1,833,772.6; thence S. 86° 21' 44" E., 3,452.4 feet to a point having a coordinate of North 511,978.9 and East 1,837,218.0; thence S. 89° 23' 36" E., 2,101.5 feet to a point having a coordinate of North 511,956.7 and East 1,839,319.4, said point being near the United States Geological Survey point labeled "Crede"; thence N. 30° 53' 20" E., 2,351.8 feet to a point having a coordinate of North 513,974.9 and East 1,840,526.8; thence N. 64° 39' 39" E., 1,801.5 feet to a point having a coordinate of North 514,745.9 and East 1,842,155.0; thence N. 61° 09' 50" E., 3302.8 feet across Coopers Creek to a point having a coordinate of North 516,338.9 and East 1,845,048.3; thence N. 04° 51' 22" E., 2,001.0 feet to a point having a coordinate of North 518,332.7 and East 1,845,217.7; thence N. 57° 01' 02" E., 2,402.1 feet to a point having a coordinate of North 519,640.4 and East 1,847,232.6; thence S. 76° 26' 07" E., 2,201.3 feet to a point having a coordinate of North 519,124.1 and East 1,849,372.5; thence N. 86° 46' 34" E., 3,352.5 feet to a point having a coordinate of North 519,312.6 and East 1,852,719.8; thence N. 74° 55' 08" E., 4,003.3 feet across Little Sandy Creek to a point having a coordinate of North 520,354.2 and East 1,856,585.2; thence N. 56° 24' 04" E., 1,301.1 feet to a point having a coordinate of North 521,074.2 and East 1,857,668.9; thence N. 11° 14' 09" E., 1,801.1 feet to a point having a coordinate of North 522,840.8 and East 1,858,019.9; thence N. 39° 59' 04" W., 2099.8 feet to a point having a coordinate of North 524,449.6 and East 1,856,670.6; thence N. 31° 32' 19" E., 2802.2 to a point having a coordinate of North 526,837.9 and East 1,858,136.3; thence N. 36° 47' 04" E., 3,803.1 feet to a point having a coordinate of North 529,883.7 and East 1,860,413.6; thence N. 28° 56' 26" E., 1,200.9 feet to a point having a coordinate of North 530,934.7 and East 1,860,994.7; thence N. 79° 39' 54" E., 3,352.7 feet to a point having a coordinate of North 531,536.2 and East 1,864,293.0; thence N. 84° 26' 40" E., 3,853.0 feet to a point having a coordinate of North 531,909.2 and East 1,868,127.9; thence S. 06° 52' 42" W., 2,248.8 feet to a point having a coordinate of North

529,676.6 and East 1,867,858.6; thence S. 11° 16' 51" W., 4,597.3 feet across Elk River to a point having a coordinate of North 525,168.1 and East 1,866,959.2; thence S. 33° 35' 47" W., 3,896.9 feet to a point having a coordinate of North 521,922.1 and East 1,864,802.9; thence S. 56° 44' 41" E., 4,501.6 feet to a point having a coordinate of North 519,453.6 and East 1,868,567.3; thence S. 02° 37' 34" E., 4,098.3 feet to a point having a coordinate of North 515,359.6 and East 1,868,755.1; thence S. 08° 20' 42" E., 2,749.0 feet to a point having a coordinate of North 512,639.7 and East 1,869,154.1; thence S. 11° 22' 51" W., 2,698.4 feet to a point having a coordinate of North 509,994.4 and East 1,868,621.6; thence S. 57° 29' 59" W., 1,898.4 feet to a point having a coordinate of North 508,974.4 and East 1,867,020.6; thence S. 23° 11' 19" W., 2,897.9 feet across Indian Creek to a point having a coordinate of North 506,310.5 and East 1,865,879.5; thence S. 60° 20'08" W., 3,646.9 feet to a point having a coordinate of North 504,505.6 and East 1,862,710.6; thence S. 75° 23' 54" W., 3,047.5 feet to a point having a coordinate of North 503,737.4 and East 1,859,761.5; thence N. 37° 14' 03" W., 5,999.5 feet to a point having a coordinate of North 508,514.0 and East 1,856,131.3; thence N. 62° 48' 27" W., 2,498.9 feet to a point having a coordinate of North 509,656.0 and East 1,853,908.6; thence S. 88° 07' 30" W., 5,246.1 feet to a point having a coordinate of North 509,484.3 and East 1,848,665.3; thence S. 53° 59' 48" W. 1,598.6 feet to a point having a coordinate of North 508,544.6 and East 1,847,372.1; thence N. 82° 09' 06" W., 3,497.7 feet to a point near the United States Geologic Survey point labeled "Milliken" having a coordinate of North 509,022.2 and East 1,843,907.1; thence S. 65° 13' 23" W., 2,697.7 feet to a point having a coordinate of North 507,891.6 and East 1,841,457.8; thence S. 21° 58' 16" W., 3,097.8 feet to a point having a coordinate of North 505,018.8 and East 1,840,298.7; thence S. 16° 42' 03" W., 2998.1 feet to a point having a coordinate of North 502,147.2 and East 1,839,437.2; thence S. 63° 01' 16" W., 3,297.2 feet to a point having a coordinate of North 500,651.4 and East 1,836,498.8; thence N. 72° 46' 45" W., 2,498.6 feet across U. S. Route 114 to a point having a coordinate of North 501,391.1 and East 1,834,112.2; thence N. 42° 39' 05" W., 3,299.5 feet to a point near Kanawha Airport having a coordinate of North 503,817.8 and East 1,831,876.7;

thence S. 54° 27' 50" W., 4,196.5 feet to another point near Kanawha Airport having a coordinate of North 501,378.8 and East 1,828,461.9; thence S. 33° 37' 47" W., 2,897.7 feet to a point having a coordinate of North 498,966.1 and East 1,826,857.1; thence S. 70° 09' 38" W., 2,198.2 feet across Elk River to the point of beginning. The above described boundary contains a total area of 21.6 square miles.

And it is ORDERED that the publisher's affidavit of publicatio of the hearing for protests and public hearing hereinbefore mentioned be and the same is hereby filed; that the affidavit of posting the notice of hearing be and the same is hereby filed; that said Board of said District be responsible for the cost of advertising the notice of the hearing for protests.

Dated this 14th day of June, 1979.

Henry C. Shores, President

Robert F. Silverstein, Commissioner

Presented By:

John N. Charnock, Jr.

Approved By:

Raymond G. Dodson
County Attorney

I, Margaret D. Miller, do hereby certify that this is a true copy from the record.
Teste: MARGARET D. MILLER, Clerk
Kanawha County Commission
Date 3/25/82 By Charlotte Pharr
Deputy

98-396

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 15th day of October, 1998, the following order was made and entered:

SUBJECT: ORDER IN THE MATTER OF THE CONSOLIDATION OF ELK-PINCH PUBLIC SERVICE DISTRICT AND BIG SANDY (SEWER) PUBLIC SERVICE DISTRICT

The following motion was offered by W. Kent Carper, Commissioner:

Pursuant to 16-13A-2(a) the County Commission of Kanawha County, West Virginia proposed the consolidation of the Elk-Pinch Public Service District and the Big Sandy (Sewer) Public Service District by order dated September 17, 1998.

By the same order the County Commission ordered a public hearing on October 15, 1998, at 5:30 p.m. The County Commission further ordered that the public hearing be advertised as a Class I Publication which affidavit is attached hereto and made a part hereof, and did further order that notice be posted in five (5) conspicuous places in both districts, which is evidenced by an affidavit attached and made a part hereof. Said hearing was held and there were no objections to the proposed consolidation.

The County Commission of Kanawha County, West Virginia, does hereby **FIND** that the consolidation of the Elk-Pinch Public Service District and Big Sandy (Sewer) Public Service District would be conducive to the preservation of public health, comfort and convenience for that area; and does further **ORDER** that Elk-Pinch Public Service District and Big Sandy (Sewer) Public Service District be consolidated upon approval of the Public Service Commission to encompass an area as shown on the legal description attached hereto and made a part hereof.

The adoption of the foregoing motion having been moved by W. Kent Carper Commissioner, and duly seconded by Louis H. Bloom, Commissioner, the vote thereon was as follows:

Louis H. Bloom, President	Aye
Henry C. Shores, Commissioner	Absent
W. Kent Carper, Commissioner	Aye

WHEREUPON, Louis H. Bloom, President, declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

Louis H. Bloom, President

Henry C. Shores, Commissioner

W. Kent Carper, Commissioner

Approved By:
County Attorney

DESCRIPTION OF LAND TO BE INCLUDED IN THE CONSOLIDATION OF ELK-PINCH PUBLIC SERVICE DISTRICT AND BIG SANDY (SEWER) PUBLIC SERVICE DISTRICT

BEGINNING at the center line of U.S. Route 119 near the City of Charleston City Limits, which point has a coordinate of North 498,220.1 and East 1,824,789.4, thence N. 06° 47' 18"E, 3,501.9 feet to a point having a coordinate of North 501,697.4 and East 1,825,208.3; thence, N. 55° 25' 17" E, 4,998.3 feet to a point having a coordinate of North 504,534.1 and East 1,821,008.0; thence N. 38° 29' 59" E, 5,004.1 feet to a point having a coronet of North 508,450.4 and East 1,824,203.1; thence N. 44° 21' 41" E, 4,653.9 feet to a point having a coordinate of North 511,777.6 and East 1,827,457.0; thence N. 34° 52' 09" E., 1,901.5 feet to a point having a coordinate of North 513,337.7 and East 1,828,544.1; thence S. 79° 08' 01" E., 900.6 feet to a point having a coordinate of North 513,168.0 and East 1,829,428.5; thence N. 18° 34' 52" E., 2,551.7 feet to a point having a coordinate of North 515,586.7 and East 1,830,241.6; thence S. 49° 03' 50" E., 2,600.6 feet to a point having a coordinate of North 513,882.7 and East 1,832,206.2; thence S 42° 54' 54" E., 2,300.4 feet to a point having a coordinate of North 512,198.0 and East 1,833,772.6; thence S. 86° 21' 44" E., 3,452.4 feet to a point having a coordinate of North 511,978.9 and East 1,837,218.0; thence S. 89° 23' 36" E., 2,101.5 feet to a point having a said point being near the United States Geological Survey point labeled "Crede"; thence N. 30° 53' 20" E., 2,351.8 feet to a point having a coordinate of North 513,974.9 and East 1,840,526.8; thence N. 64° 39' 39" E., 1,801.5 feet to a point having a coordinate of North 514,745.9 and East 1,842,155.0; thence N. 61° 09' 50" E., 3302.8 feet across Coopers Creek to a point having a coordinate of North 516,338.9 and East 1,845,048.3; thence N. 04° 51' 22" E., 2001.0 feet to a point having a coordinate of North 518,332.7 and East 1,845,217.7; thence N. 57° 01' 02" E., 2,402.1 feet to a point having a coordinate of North 519,640.4 and East 1,847,232.6; thence S. 76° 26' 07" E., 2,201.3 feet to a point having a coordinate of North 519,124.1 and East 1,849,372.5; thence N. 86° 46' 34" E, 3,352.5 feet to a point having a coordinate of North 519,312.6 and East 1,852,719.8; thence N. 74° 55' 08" E., 4,003.3 feet across Little Sandy Creek to a point having a coordinate of North 520,354.2 and East 1,856,585.2; thence N. 56° 24' 04" E., 1,301.1 feet to a point having a coordinate of North 521,074.2 and East 1,857,668.9; thence No. 11° 14' 09" E., 1,801.1 feet to a point having a coordinate of North 522,840.8 and East 1,858,019.9; thence N. 39° 59' 04" W., 2099.8 feet to a point having a coordinate of North 524,449.6 and East 1,856,670.6; thence N. 31° 32'19" E.,

2802.2 to a point having a coordinate of North 526,837.9 and East 1,858,136.3; thence, N 36° 47' 04" E., 3,803.1 feet to a point having a coordinate of North 529,883.7 and East 1,860,413.6; thence N. 28° 56' 26" E., 1,200.9 feet to a point having a coordinate of North 530,934.7 and East 1,860,994.7; thence N. 79° 39' 54" E., 3,352.7 feet to a point having a coordinate of North 531,536.2 and East 1,864,293.0; thence N. 84° 26' 40" E., 3,853.0 feet to a point having a coordinate of North 531,909.2 and East 1,868,127.9.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a northeasterly direction to a point on a pipeline on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point in a northerly direction along a ridge line forming the drainage divide between Riley Branch and Narrow Branch to point on a pipeline on the ridge forming the drainage divide between the Riley Branch and the Wills Creek.

Thence following the pipeline in a northeasterly direction to a point on the ridge between Sand Run and Wills Creek.

THENCE leaving said pipeline and continuing along the ridge line to a point where the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE northeasterly direction following the ridge line forming drainage divide between Campbell Branch and Jordan Creek and passing through the Rucker Cemetery to a point on a pipeline on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE following said pipeline in a northwesterly direction approximately 2,800 feet more or less to a point where the pipeline intersects a ridge north of Campbell Branch.

THENCE leaving the pipeline and following the ridge divide between Bufflick Run and Wills Creek in a northerly direction to a point on the ridge on WV Sec. Rt. 53/1.

THENCE following said WV Sec. Rt. 53/1 in a northwesterly direction for approximately 2,200 feet to a point where WV Sec. Rt. 53/1 intersects with WV Sec. Rt. 43/2.
THENCE in a northerly direction following WV Sec. Rt. 43/2, WV Sec. Rt. 43/1 and WV Sec. Rt. 43 to a point where WV Sec. Rt. 43 intersects the Kanawha-Roane County line.

THENCE following the Kanawha-Roane County line in a easterly direction for approximately 67,600 feet to a point where the county lines of Kanawha, Roane and Clay intersect.

THENCE following the Kanawha-Clay County line in a southwesterly direction for approximately 32,800 feet to a point on the county line.

THENCE following the Kanawha-Clay County line in a southeasterly direction for approximately 16,300 feet to a point on the county line where it meets WV Sec. Rt. 67.

THENCE from the aforesaid point following WV Sec. Rt. 67 in an westerly direction to a point where the WV Sec. Rt. 67 intersects the WV Sec. Rt. 56.

THENCE from the aforesaid point in a westerly direction following WV Sec. Rt. 56 and the ridge that forms the drainage divide between Falling Rock Creek and Morris Creek to a point where the ridge intersects a pipeline on Duval Ridge.

THENCE from the aforesaid point in a westerly direction following the ridge forming the drainage divide between Poplar Hollow and the Wolfpen Run to a point where it crosses the WV Sec. Rt. 65.

THENCE from the aforesaid point in a westerly direction following the ridge forming the drainage divide between Falling Rock Creek and Mudlick Fork and along a jeep trail to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE leaving the jeep trail and proceeding southwesterly and crossing Rock Creek to a point on the ridge approximately 1,500 feet northeast of Hayes Cemetery.

THENCE from the aforesaid point in a southerly direction and passing through the Hayes Cemetery to a point of elevation 1,161 on a ridge forming the drainage divide between Hackberry Branch and the Right Fork of Upper Three Mile Fork.
THENCE from the aforesaid point proceeding along a jeep trail in a westerly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding along a jeep trail in a northeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding in a northwesterly direction to a point where Upper Three Mile Fork branches into Blue Creek.

THENCE from the aforesaid point proceeding in a westerly direction and crossing Blue Creek to a point on the ridge.

THENCE proceeding in a southerly direction to a point on the ridge forming the drainage divide between Blue Creek and Lower Three-Mile Fork.

THENCE from the aforesaid point and leaving the ridge and crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point proceeding in a westerly direction and passing through WV Sec. Rt. 52 to a point where a pipeline meets the ridge divide between Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point and following the pipeline in a westerly direction to a point having a coordinate of North 521,922.1 and East 1,864,802.9.

Thence, S 56° 44' 41" E., 4,501.6 feet to a point having a coordinate of North 519,453.6 and East 1,868,567.3; thence, S. 02° 37' 34" E., 4,098.3 feet to a point having a coordinate of North 515,359.6 and East 1,868,755.1; thence S. 08° 20' 42" E., 2,749.0 feet to a point having a coordinate of North 512,639.7 and East 1,869,154.1; thence, S. 11° 22' 51" W., 2,698.4 feet to a point having a coordinate of North 509,994.4 and East 1,868,621.6; thence S. 57° 29' 59" W, 1,898.4 feet to a point having a coordinate of North 508,974.4 and East 1,867,020.6; thence S. 23° 11' 19" W., 2,897.9 feet across Indian Creek to a point having a coordinate of North 506,310.5 and East 1,865,879.5; thence S 60° 20' 08" W., 3,646.9 feet to a point having a coordinate of North 504,505.6 and East 1,862,710.6; thence S. 75° 23' 54" W., 3,047.5 feet to a point having a coordinate of North 503,737.4 and East 1,859,761.5; thence N. 37° 14' 03" W., 5,999.5 feet to a point having a coordinate of North 508,514.0 and East 1,856,131.3; thence N. 62° 48' 27" W., 2,498.9 feet to a point having a coordinate of North 509,656.0 and East 1,853,908.6; thence S. 88° 07' 30" W, 5,246.1 feet to a point having a coordinate of North 509,484.3 and East 1,848,665.3; thence S. 53° 59' 48" W. 1,598.6 feet to a point having a coordinate of North 508,544.6 and East 1,847,372.1; thence N. 82° 09' 06" W., 3,497.7 feet to a point near the United States Geologic Survey point labeled "Milliken" having a coordinate of North 509,022.2 and East

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PUBLIC NOTICE

A PUBLIC MEETING will be held Thursday, October 15, 1998, at 5:30 p.m. in the Kanawha County Commission Courtroom, Kanawha County Courthouse, Charleston, West Virginia.

The purpose of the meeting will be to discuss the proposal by the County Commission of Kanawha County Commission of Kanawha County concerning consolidation of Elk-Pinch Public Service District and Big Sandy (Sewer) Public Service District, described as follows:

BEGINNING at the center line of U.S. Route 119 near the City of Charleston City Limits, which point has a coordinate of North 498,220.1 and East 1,824,789.4, thence N. 06° 47' 18"E, 3,501.9 feet to a point having a coordinate of North 501,697.4 and East 1,825,208.3; thence, N. 55° 25' 17" E, 4,998.3 feet to a point having a coordinate of North 504,534.1 and East 1,821,008.0; thence N. 38° 29' 59" E, 5,004.1 feet to a point having a coronet of North 508,450.4 and East 1,824,203.1; thence N. 44° 21' 41" E, 4,653.9 feet to a point having a coordinate of North 511,777.6 and East 1,827,457.0; thence N. 34° 52' 09" E., 1,901.5 feet to a point having a coordinate of North 513,337.7 and East 1,828,544.1; thence S. 79° 08' 01" E., 900.6 feet to a point having a coordinate of North 513,168.0 and East 1,829,428.5; thence N. 18° 34' 52" E., 2,551.7 feet to a point having a coordinate of North 515,586.7 and East 1,830,241.6; thence S. 49° 03' 50" E., 2,600.6 feet to a point having a coordinate of North 513,882.7 and East 1,832,206.2; thence S 42° 54' 54" E., 2,300.4 feet to a point having a coordinate of North 512,198.0 and East 1,833,772.6; thence S. 86° 21' 44" E., 3,452.4 feet to a point having a coordinate of North 511,978.9 and East 1,837,218.0; thence S. 89° 23' 36" E., 2,101.5 feet to a point having a said point being near the United States Geological Survey point labeled "Crede"; thence N. 30° 53' 20" E., 2,351.8 feet to a point having a coordinate of North 513,974.9 and East 1,840,526.8; thence N. 64° 39' 39" E., 1,801.5 feet to a point having a coordinate of North 514,745.9 and East 1,842,155.0; thence N. 61° 09' 50" E., 3302.8 feet across Coopers Creek to a point having a coordinate of North 516,338.9 and East 1,845,048.3; thence N. 04° 51' 22" E., 2001.0 feet to a point having a coordinate of North 518,332.7 and East 1,845,217.7; thence N. 57° 01' 02" E., 2,402.1 feet to a point having a coordinate of North 519,640.4 and East 1,847,232.6; thence S. 76° 26' 07" E., 2,201.3 feet to a point having a coordinate of North 519,124.1 and East 1,849,372.5; thence N. 86° 46' 34" E, 3,352.5 feet to a point having a coordinate of North 519,312.6 and East

1,852,719.8; thence N. 74° 55' 08" E., 4,003.3 feet across Little Sandy Creek to a point having a coordinate of North 520,354.2 and East 1,856,585.2; thence N. 56° 24' 04" E., 1,301.1 feet to a point having a coordinate of North 521,074.2 and East 1,857,668.9; thence No. 11° 14' 09" E., 1,801.1 feet to a point having a coordinate of North 522,840.8 and East 1,858,019.9; thence N. 39° 59' 04" W., 2099.8 feet to a point having a coordinate of North 524,449.6 and East 1,856,670.6; thence N. 31° 32'19" E., 2802.2 to a point having a coordinate of North 526,837.9 and East 1,858,136.3; thence, N 36° 47' 04" E., 3,803.1 feet to a point having a coordinate of North 529,883.7 and East 1,860,413.6; thence N. 28° 56' 26" E., 1,200.9 feet to a point having a coordinate of North 530,934.7 and East 1,860,994.7; thence N. 79° 39' 54" E., 3,352.7 feet to a point having a coordinate of North 531,536.2 and East 1,864,293.0; thence N. 84° 26' 40" E., 3,853.0 feet to a point having a coordinate of North 531,909.2 and East 1,868,127.9.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a northeasterly direction to a point on a pipeline on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point in a northerly direction along a ridge line forming the drainage divide between Riley Branch and Narrow Branch to point on a pipeline on the ridge forming the drainage divide between the Riley Branch and the Wills Creek.

Thence following the pipeline in a northeasterly direction to a point on the ridge between Sand Run and Wills Creek.

THENCE leaving said pipeline and continuing along the ridge line to a point where the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE northeasterly direction following the ridge line forming drainage divide between Campbell Branch and Jordan Creek and passing through the Rucker Cemetery to a point on a pipeline on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE following said pipeline in a northwesterly direction approximately 2,800 feet more or less to a point where the pipeline intersects a ridge north of Campbell Branch.

THENCE leaving the pipeline and following the ridge divide between Bufflick Run and Wills Creek in a northerly direction

to a point on the ridge on WV Sec. Rt. 53/1.

THENCE following said WV Sec. Rt. 53/1 in a northwesterly direction for approximately 2,200 feet to a point where WV Sec. Rt. 53/1 intersects with WV Sec. Rt. 43/2.
THENCE in a northerly direction following WV Sec. Rt. 43/2, WV Sec. Rt. 43/1 and WV Sec. Rt. 43 to a point where WV Sec. Rt. 43 intersects the Kanawha-Roane County line.

THENCE following the Kanawha-Roane County line in a easterly direction for approximately 67,600 feet to a point where the county lines of Kanawha, Roane and Clay intersect.

THENCE following the Kanawha-Clay County line in a southwesterly direction for approximately 32,800 feet to a point on the county line.

THENCE following the Kanawha-Clay County line in a southeasterly direction for approximately 16,300 feet to a point on the county line where it meets WV Sec. Rt. 67.

THENCE from the aforesaid point following WV Sec. Rt. 67 in an westerly direction to a point where the WV Sec. Rt. 67 intersects the WV Sec. Rt. 56.

THENCE from the aforesaid point in a westerly direction following WV Sec. Rt. 56 and the ridge that forms the drainage divide between Falling Rock Creek and Morris Creek to a point where the ridge intersects a pipeline on Duval Ridge.

THENCE from the aforesaid point in a westerly direction following the ridge forming the drainage divide between Poplar Hollow and the Wolfpen Run to a point where it crosses the WV Sec. Rt. 65.

THENCE from the aforesaid point in a westerly direction following the ridge forming the drainage divide between Falling Rock Creek and Mudlick Fork and along a jeep trail to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE leaving the jeep trail and proceeding southwesterly and crossing Rock Creek to a point on the ridge approximately 1,500 feet northeast of Hayes Cemetery.

THENCE from the aforesaid point in a southerly direction and passing through the Hayes Cemetery to a point of elevation 1,161 on a ridge forming the drainage divide between Hackberry Branch and the Right Fork of Upper Three Mile Fork.
THENCE from the aforesaid point proceeding along a jeep trail

in a westerly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding along a jeep trail in a northeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding in a northwesterly direction to a point where Upper Three Mile Fork branches into Blue Creek.

THENCE from the aforesaid point proceeding in a westerly direction and crossing Blue Creek to a point on the ridge.

THENCE proceeding in a southerly direction to a point on the ridge forming the drainage divide between Blue Creek and Lower Three-Mile Fork.

THENCE from the aforesaid point and leaving the ridge and crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point proceeding in a westerly direction and passing through WV Sec. Rt. 52 to a point where a pipeline meets the ridge divide between Potato Fork and Buffalo Lick Branch.

THENCE from the aforesaid point and following the pipeline in a westerly direction to a point having a coordinate of North 521,922.1 and East 1,864,802.9.

Thence, S 56° 44' 41" E., 4,501.6 feet to a point having a coordinate of North 519,453.6 and East 1,868,567.3; thence, S. 02° 37' 34" E., 4,098.3 feet to a point having a coordinate of North 515,359.6 and East 1,868,755.1; thence S. 08° 20' 42" E., 2,749.0 feet to a point having a coordinate of North 512,639.7 and East 1,869,154.1; thence, S. 11° 22' 51" W., 2,698.4 feet to a point having a coordinate of North 509,994.4 and East 1,868,621.6; thence S. 57° 29' 59" W, 1,898.4 feet to a point having a coordinate of North 508,974.4 and East 1,867,020.6; thence S. 23° 11' 19" W., 2,897.9 feet across Indian Creek to a point having a coordinate of North 506,310.5 and East 1,865,879.5; thence S 60° 20' 08" W., 3,646.9 feet to a point having a coordinate of North 504,505.6 and East 1,862,710.6; thence S. 75° 23' 54" W., 3,047.5 feet to a point having a coordinate of North 503,737.4 and East 1,859,761.5; thence N. 37° 14' 03" W., 5,999.5 feet to a point having a

coordinate of North 508,514.0 and East 1,856,131.3; thence N. 62° 48' 27" W., 2,498.9 feet to a point having a coordinate of North 509,656.0 and East 1,853,908.6; thence S. 88° 07' 30" W, 5,246.1 feet to a point having a coordinate of North 509,484.3 and East 1,848,665.3; thence S. 53° 59' 48" W. 1,598.6 feet to a point having a coordinate of North 508,544.6 and East 1,847,372.1; thence N. 82° 09' 06" W., 3,497.7 feet to a point near the United States Geologic Survey point labeled "Milliken" having a coordinate of North 509,022.2 and East 1,843,907.1; thence S. 65° 13' 23" W., 2,697.7 feet to a point having a coordinate of North 507,891.6 and East 1,841,457.8; thence S. 21° 58' 16" W., 3,097.8 feet to a point having a coordinate of North 505,018.8 and East 1,840,298.7; thence S. 16° 42' 03" W., 2998.1 feet to a point having a coordinate of North 502,147.2 and East 1,839,437.2; thence S. 63° 01' 16" W., 3,297.2 feet to a point having a coordinate of North 500,651.4 and East 1,836,498.8; thence N. 72° 46' 45" W., 2,498.6 feet across U.S. Route 114 to a point having a coordinate of North 501,391.1 and East 1,834,112.2; thence N. 42° 39' 05" W., 3,299.5 feet to a point near Kanawha Airport having a coordinate of North 503,817.8 and East 1,831,876.7; thence S. 54° 27' 50" W., 4,196.5 feet to another point near Kanawha Airport having a coordinate of North 501,378.8 and East 1,828,461.9; thence, S. 33° 37' 47" W., 2,897.7 feet to a point having a coordinate of North 498,966.1 and East 1,826,857.1; thence S. 70° 09' 38" W., 2,198.2 feet across Elk River to the point of beginning, including the Town of Clendenin.

Louis H. Bloom, President
W. Kent Carper, Commissioner
Henry C. Shores, Commissioner

10084

18

ON NEWSPAPERS
). Box 2993
[redacted] West Virginia 25330
Billing 348-4898
Classified 348-4848
1-800-WVA-NEWS

LEGAL ADVERTISING INVOICE

INVOICE DATE	09/30/98
ACCOUNT NBR	034900003
SALES REP ID	0014
INVOICE NBR	573736001

M

KANAWHA COUNTY COMMISSION
ATTN: DEBBIE RUCKER
P.O. BOX 3226
CHARLESTON WV 25332

ED

ACCT. NO.	401-20
AMOUNT	
NET	$461.30

The [illegible] listed on this invoice have been Purchased for the use of Kanawha County, and have been received in good condition except as noted hereon. Unit prices have been checked with the purchase orders, extensions and total cost have been verified and this invoice is approved for payment accordingly.

Daniel E Blue

AMOUNT PAID: _____

Please return this portion with your payment.
Make checks payable to: Charleston Newspapers

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INVOICE DATE	09/30/98
ACCOUNT NBR	034900003
SALES REP ID	0014
INVOICE NBR	573736001

Legal pricing is based upon 67 words per column inch at a rate of $.0925 per word.
Each successive insertion is discounted by 25% of the first insertion rate ($.069375 per word).

DE	AC TYPE	PUB	DESCRIPTION REFERENCE NBR PURCHASE ORDER #	AD NUMBER	AD SIZE TOTAL ADS	RATE	GROSS AMOUNT	NET AMOUNT
28	LEGF	GZ	PUBLIC NOTICE 573736001	L409191	2X1863 37.25	6.19	230.65	
28	LEGF	DM	PUBLIC NOTICE 573736001	L409191	2X1863 37.26	6.19	230.65	461.30
			TOTAL INVOICE AMOUNT					461.30

of West Virginia,

AFFIDAVIT OF PUBLICATION

Donara Lecoq of

CHARLESTON GAZETTE, A DAILY DEMOCRATIC NEWSPAPER,
DAILY MAIL, A DAILY REPUBLICAN NEWSPAPER,
shed in the city of Charleston, Kanawha County, West Virginia, do solemnly swear that the annexed notice of:
LIC NOTICE
fully published in said paper(s) during the dates listed below, and was posted at the front door of the court house of said Kanawha County,
Virginia, on the 29TH day of SEPTEMBER 1998. Published during the following dates: 09/28/98-09/28/98
scribed and sworn to before me this 1 day of October
ers fee $ 461.30

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LYNN R. FIELDER
3643 PUTNAM AVE.
HURRICANE, WV 25526
My Commission Expires December 11, 2006

PUBLIC NOTICE

A PUBLIC MEETING will be held Thursday, October 15, 1998, at 5:30 p.m. in the Kanawha County Commission Courtroom, Kanawha County Courthouse, Charleston, West Virginia.

The purpose of the meeting will be to discuss the proposal by the County Commission of Kanawha County Commission of Kanawha County concerning consolidation of Elk-Pinch Public Service District and Big Sandy (Sewer) Public Service District, described as follows:

BEGINNING at the center line of U.S. Route 119 near the City of Charleston City Limits, which point has a coordinate of North 498,220.1 and East 1,824,789.4, thence N. 06° 47' 18'' E. 3,501.9 feet to a point having a coordinate of North 501,697.4 and East 1,825,208.3; thence N. 55° 25' 17'' E, 4,998.3 feet to a point having a coordinate of North 504,534.1 and East 1,821,008.0; thence N. 38° 29' 59'' E, 5,004.1 feet to a point having a coronet of North 508,450.4 and East 1,824,203.1; thence N. 44° 21' 41'' E, 4,653.9 feet to a point having a coordinate of North 511,777.6 and East 1,827,457.0; thence N. 34° 52' 09'' E., 1,901.5 to a point having a coordinate of North 513,337.7 and East 1,828,544.1; thence S. 79° 08' 01'' E., 900.6 feet to a point having a coordinate of North 513,168.0 and East 1,829,428.5; thence N. 18° 34' 52'' E., 2,551.7 feet to a point having a coordinate of North 515,586.7 and East 1,830,241.6; thence S. 49° 03' 50'' E., 2,600.6 feet to a point having a coordinate of North 513,882.7 and East 1,832,206.2; thence S. 42° 54' 54'' E., 2,300.4 feet to a point having a coordinate of North 512,198.0 and East 1,833,772.6; thence S. 86° 21' 44'' E., 3,452.4 feet to a point having a coordinate of North 511,978.9 and East 1,837,218.0; thence S. 89° 23' 36'' E., 2,101.5 feet to a point having a said point being near the United States Geological Survey point labeled "Creda"; thence N. 30° 53' 20'' E., 2,351.8 feet to a point having a coordinate of North 513,974.9 and East 1,840,526.8; thence N. 64° 39' 39'' E., 1,801.5 feet to a point having a coordinate of North 514,745.9 and East 1,842,155.0; thence N. 61° 09' 50'' E., 3302.8 feet across Coopers Creek to a point having a coordinate of North 516,338.9 and East 1,845,048.3; thence N. 04° 51' 22'' E., 2001.0 feet to a point having a coordinate of North 518,332.7 and East 1,845,217.7; thence N. 57° 01' 02'' E., 2,402.1 feet to a point having a coordinate of North 519,640.4 and East 1,847,232.6; thence S. 76° 28' 07'' E., 2,201.3 feet to a point having a coordinate of North 519,124.1 and East 1,849,372.5; thence N. 86° 46' 34'' E., 3,352.5 feet to a point having a coordinate of North

and East thence N. 74° 53' 08'' E., 4,003.3 feet across Little Sandy Creek to a point having a coordinate of North 520,354.2 and East 1,856,585.2; thence N. 56° 24' 04'' E., 1,301 feet to a point having a coordinate of North 521,074.2 and East 1,857,668.9; thence No. 11° 14' 09'' E., 1,801.1 feet to a point having a coordinate of North 522,840.8 and East 1,858,019.9; thence N. 39° 59' 04'' W., 2099.8 feet to a point having a coordinate of North 524,449.6 and East 1,856,670.6; thence N. 31° 32' 19'' E., 2802.2 to a point having a coordinate of North 526,837.9 and East 1,858,136.3; thence N. 36° 47' 04'' E., 3,803.1 feet to a point having a coordinate of North 529,883.7 and East 1,860,413.6; thence N. 28° 56' 26'' E., 1,200.9 feet to a point having a coordinate of North 530,934.7 and East 1,860,994.7; thence N. 79° 39' 54'' E., 3,352.7 feet to a point having a coordinate of North 531,536.2 and East 1,864,293.0; thence N. 84° 26' 40'' E., 3,853.0 feet to a point having a coordinate of North 531,909.2 and East 1,868,127.9.

THENCE from the aforesaid point following the ridge line dividing Narrow Branch and Elk River in a northeasterly direction to a point on a pipeline on the ridge north of Blue Creek Chapel.

THENCE from the aforesaid point in a northerly direction along a ridge line forming the drainage divide between Riley Branch and Narrow Branch to a point on a pipeline on the ridge forming the drainage divide between the Riley Branch and Wills Creek.

THENCE following the pipeline in a northeasterly direction to a point on the ridge between Sand Run and Wills Creek.

THENCE leaving said pipeline and continuing along the ridge line to a point where the ridge line forming the drainage divide between Mill Fork and Wills Creek.

THENCE northeasterly direction following the ridge line forming drainage divide between Campbell Branch and Jordan Creek and passing through the Rucker Cemetery to a point on a pipeline on a ridge forming the drainage divide between Campbell Branch and Bufflick Run.

THENCE following said pipeline in a northwesterly direction approximately 2,800 feet more or less to a point where the pipeline intersects a ridge north of Campbell Branch.

THENCE leaving the pipeline and following the ridge divide between Buffick Run and Wills Creek in a northerly direction to a point on the ridge on WV Sec. Rt. 53/1.

THENCE following said WV Sec. Rt. 53/1 in a northwesterly direction for approximately 2,200 feet to a point where WV Sec. Rt. 53/1 intersects with WV Sec. Rt. 43/2.

THENCE in a northerly direction following WV Sec. Rt. 43/2, WV Sec. Rt. 43/1 and WV Sec. Rt. 43 to a point where WV Sec. Rt. 43 intersects the Kanawha-Roane County line.

THENCE following the Kanawha-Roane County line in a easterly direction for approximately 67,600 feet to a point where the county lines of Kanawha, Roane and Clay intersect.

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THENCE from the aforesaid point in a westerly direction following the ridge forming the drainage divide between Poplar Hollow and the Wolfpen Run to a point where it crosses the WV Sec. Rt. 65.

THENCE from the aforesaid point in a westerly direction following the ridge forming the drainage divide between Falling Rock Creek and Mudlick Fork and along a jeep trail to a point on the ridge forming the drainage divide between Rock Creek and Laurel Creek.

THENCE leaving the jeep trail and proceeding southwesterly and crossing Rock Creek to a point on the ridge approximately 1,500 feet northeast of Hayes Cemetery.

THENCE from the aforesaid point in a southerly direction and passing through the Hayes Cemetery to a point of elevation 1,161 on a ridge forming the drainage divide between Hackberry Branch and the Right fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding along a jeep trail in a westerly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding along a jeep trail in a northeasterly direction to a point on the ridge forming the drainage divide between Blue Creek and the Right Fork of Upper Three Mile Fork.

THENCE from the aforesaid point proceeding in a northwesterly direction to a point where Upper Three Mile Fork branches into Blue Creek.

THENCE from the aforesaid point proceeding in a westerly direction and crossing Blue Creek to a point on the ridge.

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THENCE from the aforesaid point and leaving the ridge and crossing Lower Three-Mile Fork to a point on the ridge forming the drainage divide between Lower Three-Mile Fork and Pinch Creek.

THENCE from the aforesaid point proceeding in a westerly direction and passing through WV Sec. Rt. 52 to a point where a pipeline meets the ridge divide between Potato Fork and Buffalo Lick Branch.

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THENCE, S. 56° 44' 41'' E., 4,501.6 feet to a point having a coordinate of North 519,453.6 and East 1,868,567.3; thence S. 02° 37' 34'' E., 4,098.3 feet to a point having a coordinate of North 515,359.6 and East 1,868,755.1; thence S. 08° 20' 42'' E., 2,749.0 feet to a point having a coordinate of North 512,639.7 and East 1,869,154.1; thence, S. 11° 22' 51'' W., 2,698.4 feet to a point having a coordinate of North 509,994.4 and East 1,868,621.6; thence S. 57° 29' 59'' W., 1,898.4 feet to a point having a coordinate of North 508,974.4 and East 1,867,020.6; thence S. 23° 11' 19'' W., 2,897.9 feet across Indian Creek to a point having a coordinate of North 506,310.5 and East 1,865,879.5; thence S. 60° 20' 08'' W., 3,646.9 feet to a point having a coordinate of North 504,505.6 and East 1,862,710.6; thence S. 75° 23' 54'' W., 3,047.5 feet to a point having a coordinate of North 503,737.4 and East 1,859,761.5; thence N. 37° 14' 03'' W., 6,999.5 feet to a point having a coordinate of North 508,312.0 and East 1,856,131.3; thence N. 62° 48' 27'' W., 2,498.9 feet to a point having a coordinate of North 509,456.0 and East 1,853,908.6; thence S. 88° 07' 30'' W., 5,246.1 feet to a point having a coordinate of North 509,484.3 and East 1,848,665.3; thence S. 53° [illegible] W., 1,098.8 feet to a point having a coordinate of North 508,547.6 and East 1,847,372.1; thence N. 82° 09' [illegible] W., 3,497.7 feet to a point near the United States Geological Survey point labeled "Milliken" having a coordinate of North 509,022.2 and East 1,843,907.1; thence S. 65° 13' 23'' W., 2,697.7 feet to a point having a coordinate of North 507,891.6 and East 1,841,457.8; thence S. 21° 58' 16'' W., 3,097.8 feet to a point having a coordinate of North 505,018.8 and East 1,840,298.7; thence S. 16° 42' 03'' W., 2,998.1 feet to a point having a coordinate of North 502,147.2 and East 1,839,437.2; thence N. 63° 01' 16'' W., 3,297.2 feet to a point having a coordinate of North 500,651.4 and East 1,836,498.8; thence N. 2° 46' 45'' W., 2,498.6 feet across U.S. Route 114 to a point having a coordinate of North 501,391.1 and East 1,834,112.2; thence N. 42° 39' 5'' W., 3,299.5 feet to a point near Kanawha Airport having a coordinate of North 503,817.8 and East 1,831,876.7; thence S. 54° 27' 50'' W., 4,196.5 feet to another point near Kanawha Airport having a coordinate of North 501,378.8 and East 1,828,461.9; thence, S. 33° 37' 47'' W., 2,897.7 feet to a point having a coordinate of North 498,966.1 and East 1,826857.1; thence S. 70° 09' 38'' W., 2,198.2 feet across Elk River to the point of beginning, including the Town of Clendenin.

Louis H. Bloom
President

W. Kent Carper
Commissioner

Henry C. Shores
Commissioner

(489191)

KANAWHA COUNTY COMMISSION

Post Office Box 3627
Charleston, West Virginia 25336

Telephone (304) 357-0101
Fax (304) 357-0788

Henry C. Shores
Commissioner

Louis H. Bloom
Commissioner

W. Kent Carper
Commissioner

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit:

William F. Thaxton, being first duly sworn, says that:

On September 18, 1998, I, William F. Thaxton, posted a Notice of Public Hearing in the matter of the proposed dissolution of the Big Sandy Sewer Public Service District and the Elk Pinch Public Service District by the County Commission of Kanawha County, said Public Hearing being scheduled on Thursday, October 15, 1998 at 5:30 P.M. in the County Commission Hearing Room, Kanawha County Courthouse, Charleston, West Virginia; said Notice was posted within the boundaries of the aforementioned Public Service Districts situate in Kanawha County at the following locations:

Big Sandy Public Service District

1. Krogers, Clendenin, Kanawha County, WV;
2. Clendenin Community Center, Clendenin, Kanawha County, WV;
3. Clendenin City Hall, Clendenin, Kanawha County, WV;
4. Dairy Queen, Clendenin, Kanawha County, WV;
5. Big Sandy Public Service District Office, Clendenin, Kanawha County, WV;
6. Falling Rock Post Office, Falling Rock, Kanawha County, WV;
7. Blue Creek Post Office, Blue Creek, Kanawha County, WV;
8. B P Service Station, Clendenin Exit of I-79, Kanawha County, WV.

Elk-Pinch Public Service District

1. Elkview Post Office, Elkview, Kanawha County, WV;
2. Smith's Market, Elkview, Kanawha County, WV;
3. Roger's I.G.A. Market, Pinch, Kanawha County, WV;
4. Buddy's Double Laundry, Pinch, Kanawha County, WV;

5. Shop & Go Convenience Store, Pinch, Kanawha County, WV;
6. Elk Valley Public Library, Big Chimney, Kanawha County, WV;
7. Elk-Pinch Public Service District, Pinch, Kanawha County, WV.

William F. Thaxton
Project Coordinator

Taken, subscribed and sworn to before the undersigned authority by William F. Thaxton, in the county aforesaid this 18th day of September, 1998.

My commission expires June 5, 2001.

Janet C. Duffield
Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
JANET C. DUFFIELD
KANAWHA COUNTY COMMISSION
[illegible] STREET, EAST
CHARLESTON, WV 25301
My Commission Expires June 5, 2001

ORIGINAL

ENTERED
OB 99.D Page _____

981293com021999.wpd

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 19th day of February, 1999.

CASE NO. 98-1293-PSD-PC

KANAWHA COUNTY COMMISSION
Petition for consent and approval
to consolidate Elk-Pinch Public
Service District and Big Sandy
Sewer Public Service District.

COMMISSION ORDER

PROCEDURE AND HISTORY

On October 20, 1998, the Kanawha County Commission (County Commission) filed a petition for consent and approval to consolidate the Elk-Pinch Public Service District (Elk-Pinch) and the Big Sandy Sewer Public Service District (Big Sandy). See W.Va. Code §16-13A-2. On November 16, 1998, the County Commission filed an order indicating that, contingent upon the Commission's approval of the consolidation, "the newly created Public Service District shall be known as the 'Elk Valley Public Service District.'"

On November 18, 1998, Staff filed a Final Joint Staff Memorandum, recommending Commission approval of the consolidation. Subsequently, on December 18, 1998, Staff filed a letter from Technical Staff to the Kanawha County Commissioners (County Commissioners),dated May 28, 1997, which was inadvertently omitted as an attachment to

the Final Joint Staff Memorandum filed November 18, 1998.[1]

In support of its recommendation that Big Sandy and Elk-Pinch be consolidated, Technical Staff reiterated several of the concerns in its May 28, 1997 letter to the County Commissioners, which had previously been raised by James H. Graver, C.P.A. in Big Sandy's Annual Report/Annual Audit (Annual Report) for the fiscal year ended June 30, 1996. May 28, 1997 letter from Technical Staff to the County Commissioners, December 18, 1998, p.2. First, it was noted that Big Sandy has not complied with the Bond Ordinance dated July 12, 1990 in three areas: (1) Big Sandy has failed to fund the Renewal and Replacement account at 2 ½ % of gross revenues as required by the Bond Ordinance. As of June 30, 1996, Big Sandy was in arrears in the amount of $33,897.00; (2) though the Bond Ordinance requires a Grinder Pump Replacement Reserve to be funded at a rate of $260 per month, the balance of this fund, as of June 30, 1996, was $978. The fund was in arrears in the amount of $7,060.00, for the fiscal years 1992, 1993, and 1994; and (3) Big Sandy has failed to maintain sufficient coverage as required by the Bonding Agreement, which requires 115% coverage. The coverages for 1995 and 1996 were 65.30% and 74.32%, respectively. Id at p.2-3.

Further, according to the Annual Report, to ensure the future of Big Sandy, it is necessary that it connect 100 additional customers to increase revenues, that it receive a

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[1]The May 28, 1997 letter was generated in response to a formal request by the County Commissioners that Technical Staff of the Water and Wastewater Division review possible scenarios relating to the consolidation and to make a recommendation thereon.

Public Service Commission
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supplement of $30,000.00 per year from the State to pay for chemicals, or that it request a 12% increase in rates. Id at p.3. While the above three recommendations were previously made in the Annual Reports for the fiscal years ended June 30, 1994 and June 30, 1995, Big Sandy has made few connections in the past several years, has received no additional supplements, and has not filed a petition with the Commission to increase rates and charges. Id.

In the May 28, 1997 letter to the County Commissioners, Technical Staff set forth, in its opinion, various financial savings which would immediately be realized by Big Sandy customers upon consolidation with Elk-Pinch. For example, approximately $2,700.00 per year would be saved in board fees upon elimination of the three board member positions from Big Sandy; approximately $5,460.00 per year would be saved by eliminating the part-time secretary/billing clerk position at Big Sandy; and approximately $3,283.00 per year would be saved in rental and utility costs by closing the Big Sandy office in Clendenin, West Virginia. Id.

Additionally, Technical Staff indicated several other areas of potential savings for Big Sandy customers. For example, Big Sandy employs two full-time field personnel. According to Technical Staff, Big Sandy could realize potential savings by these employees allocating their time between both Big Sandy and Elk-Pinch. Id, at p. 4.[2] Further, both Big

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[2]Technical Staff notes that, in addition to the two full-time field employees, two of the three Big Sandy board members devote a significant amount of time working in the field without compensation. Technical Staff believes that upon consolidation and the elimination of the Big Sandy board positions, Big Sandy's labor expenses may increase

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Sandy and Elk-Pinch employ the same accountant. Technical Staff believes that consolidation could possibly reduce not only accounting expenses, but also expenses related to other outside services, such as attorney fees. Id. Technical Staff also pointed out that Big Sandy customers might save in expenses related to liability insurance coverage, though the amount potentially saved will depend upon the allocation of the associated costs between Big Sandy and Elk-Pinch. Id.

Staff also recommended that the consolidated district maintain a separate financial and statistical account of Big Sandy's operations and that the cash assets of Big Sandy, other than the restricted bond reserve,as well as any cash remaining after all financial obligations of Big Sandy are met, be placed in an interest bearing account for repairs, replacements and extensions to Big Sandy and that the accrued interest from this account remain part of the account. Final Joint Staff Memorandum, November 18, 1998.

On December 8, 1998, a hearing on the matter was conducted before the Commission, at which Marc J. Slotnick, Esquire, appeared on behalf of the County Commission and Cassius H. Toon, Esquire, appeared on behalf of Commission Staff. During the course of the hearing, James D. Kauffelt, Esquire, on behalf of Big Sandy, moved for and was granted intervenor status.

The primary issues raised by Big Sandy at the hearing included its concern that Big

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proportionately. Id at p.5.

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Sandy customers would not benefit from the consolidation. Tr. pp. 15, 28, 34. Big Sandy was also concerned that its customers not be subject to a rate increase upon approval of the consolidation by the Commission. Rather, Big Sandy proposed that the Commission order that a consolidated, and presumably lower, rate be immediately effective. See Tr. pp. 8, 32, 38, 54, 55.

In addition to the immediate and potential financial savings set forth in the May 28, 1997 letter from Technical Staff to the County Commissioners, discussed above, it was reiterated during the hearing that consolidation of Big Sandy and Elk-Pinch would eliminate the costs associated with duplicative services such as accounting and legal fees, maintenance, office space and secretarial positions. See Testimony of David Bostic, Executive Director, Kanawha County Planning and Community Development, Tr. p. 41, 48.

With regard to Big Sandy's position that a consolidated rate become effective upon consolidation, Staff recommended, at the hearing, that a consolidated rate for customers of the new district not be immediately calculated. Tr. p. 54, 55-56. Randy Lengyel of the Commission's Technical Staff recommended that the new district experience one year of consolidation to allow sufficient time to adjust its expenses and revenues. Tr. p. 54-55. At that time, a fair rate may be calculated. Tr. p. 54-55.

Finally, both Big Sandy and Elk-Pinch are currently paying on bond issues. Big Sandy argued that if the bonds are to be refinanced upon approval of the consolidation, any refinancing should be done on a consolidated basis, creating a new debt to be paid by the

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consolidated public service district. See Tr. p. 62.[3]

DISCUSSION

The Commission is persuaded that consolidation of Big Sandy and Elk-Pinch should be approved. As indicated in the May 28, 1997 letter from Technical Staff to the County Commissioners, Big Sandy has failed to comply with the terms of the Bond Ordinance and to adopt the recommendations offered in the Annual Report. As a result, the future of Big Sandy has been called into question. May 28, 1997 letter from Technical Staff to County Commissioners, December 18, 1998, at p.3.

In contrast, Big Sandy would realize both immediate and potential financial savings upon consolidation with Elk-Pinch. For example, approximately $2,700.00 per year would be saved in board fees upon elimination of the three board member positions from Big Sandy; approximately $5,460.00 per year would be saved by eliminating the part-time secretary/billing clerk position at Big Sandy; and approximately $3,283.00 per year would be saved in rental and utility costs by closing the Big Sandy office in Clendenin, West Virginia. Id. Further, Big Sandy could experience other potential savings by allocating the time of its field personnel between both Big Sandy and Elk-Pinch and by reducing expenses associated with outside services such as accounting and attorney fees, as well as costs associated with maintenance, office space and secretarial staff. Id; See Tr. pp. 41, 48.

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[3]It should be noted that Big Sandy did not request that the bonds be refinanced. Rather, Big Sandy's concern was that if refinancing is to take place, it should be done on a consolidated basis. Tr. p. 65.

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However, the Commission does not believe that a consolidated rate for the new district should be immediately calculated. The Commission believes that one year of consolidation is necessary in order to determine a fair rate for the new district, as recommended by Staff. Tr. p. 55-56. After the new district has been in existence for one year, it shall file an application to change its rates and charges. Until such application is filed and approved, the consolidated district shall continue to charge Big Sandy customers pursuant to Big Sandy's current tariff and Elk-Pinch customers pursuant to Elk-Pinch's current tariff.

The Commission further believes that the bond issues for which each of the two districts are responsible should continue. In the event the County Commission deems it necessary to refinance the bonds in the future, the Commission will, at that time, determine whether the proposed refinancing should be approved.

FINDINGS OF FACT

1. On October 20, 1998, the County Commission filed a petition for consent and approval to consolidate Elk-Pinch and Big Sandy. See W.Va. Code §16-13A-2.

2. On November 16, 1998, the County Commission filed an order indicating that, contingent upon the Commission's approval of the consolidation, "the newly created Public Service District shall be known as the 'Elk Valley Public Service District.'"

3. Commission Staff has recommended approval of the consolidation. Final Joint Staff Memorandum, November 18, 1998; May 28, 1997 letter from Technical Staff to County Commissioners, December 18, 1998.

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[redacted]ginia

4. Big Sandy has failed to comply with the terms of the Bond Ordinance and to adopt the recommendations offered in the Annual Report. As a result, the future of Big Sandy has been called into question. May 28, 1997 letter from Technical Staff to County Commissioners, at p.3.

5. Big Sandy would realize both immediate and potential financial savings upon consolidation with Elk-Pinch.

CONCLUSION OF LAW

The Commission concludes that it is reasonable to approve the consolidation of Big Sandy and Elk-Pinch.

ORDER

IT IS THEREFORE ORDERED that the petition for consent and approval to consolidate the Elk-Pinch Public Service District and the Big Sandy Sewer Public Service District, filed by the Kanawha County Commission on October 20, 1998, is approved.

IT IS FURTHER ORDERED that the consolidated district shall be known as the Elk Valley Public Service District.

IT IS FURTHER ORDERED that the consolidated district shall file with the Commission an application to change its rates and charges one year from the date of this order.

IT IS FURTHER ORDERED that until such application to change the rates and charges of the consolidated district is filed and approved, the consolidated district shall continue to charge Big Sandy customers pursuant to Big Sandy's current tariff and Elk-Pinch

Public Service Commission
[redacted]ginia

customers pursuant to Elk-Pinch's current tariff. The consolidated district shall maintain a separate financial and statistical account of Big Sandy's operations.

IT IS FURTHER ORDERED that the cash assets of Big Sandy, other than the restricted bond reserve, shall be placed in an interest bearing account for repairs, replacements and extensions to Big Sandy and the accrued interest from this account shall remain part of the account.

IT IS FURTHER ORDERED that after all financial obligations of Big Sandy are met, any surplus cash shall be deposited into the restricted cash account as set forth in the immediately preceding paragraph.

IT IS FURTHER ORDERED that this case is hereby resolved and shall be removed from the Commission's docket of active cases.

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

Otis D. Casto

Otis D. Casto, Commissioner

Richard D. Frum, Commissioner

Charlotte R. Lane

Charlotte R. Lane, Chairman

MSB/lfg
981293c.wpd

Public Service Commission
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ORIGINAL

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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 6th day of March, 2002.

CASE NO. 98-1293-PSD-PC (REOPENED)

KANAWHA COUNTY COMMISSION
Petition for consent and approval to consolidate Elk-Pinch Public Service District and Big Sandy Sewer Public Service District.

COMMISSION ORDER

The Commission previously approved the consolidation of two public service districts. That order did not expressly approve of the consolidated district assuming the outstanding indebtedness of the two districts. In this order, the Commission approves of the assumption of that indebtedness.

BACKGROUND

On February 1, 2002, Elk Valley Public Service District petitioned to reopen this case for approval of Elk Valley's assumption of outstanding debt incurred by the former Elk-Pinch Public Service District and the Big Sandy Sewer Public Service District. Petition p. 1. Elk Valley is the successor by merger to the consolidation of the Elk-Pinch and Big Sandy PSDs, which the Public Service Commission approved on February 19, 1999. Id.

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Charleston

Big Sandy and Elk-Pinch each issued revenue bonds that are held by the West Virginia Water Development Authority.[1] Id. WDA asked Elk Valley to seek the Commission's approval of Elk Valley's assumption of the outstanding bonded indebtedness of Big Sandy and Elk-Pinch. Id. p. 2. The Commission's order approving the consolidation did not address the assumption of the debt, and the WDA requested an amended order on that issue alone, Elk Valley said. Id.

Elk Valley advised the Commission that all the terms, conditions and covenants contained in the Elk-Pinch and Big Sandy bond resolutions have been complied with and that all payments due on the bonds and the reserve accounts were current. Id. Elk Valley asked the Commission to retain the case and to handle it expeditiously. Id.

On February 8, 2002, Commission Staff recommended that the petition be granted. Initial & Final Joint Staff Memorandum p. 1 & Initial & Final Internal Memorandum p. 1, attached. Legal Staff recommended that the petition be assigned a separate case number rather than reopening the Kanawha County Commission proceeding. Id.

DISCUSSION

[1] Elk-Pinch's outstanding bond issues are $5,227,400 Sewerage System Revenue Bond, Series 1987A and $1,282,163 Sewerage System Revenue Bond, Series 1987B. Big Sandy's outstanding bond issues are $1,388,390 Sewerage System Revenue Bond, Series 1990A, and $62,701 Sewerage System Revenue Bond, Series 1990B.

Public Service Commission
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Charleston

This case should be reopened to consider Elk Valley's request. The Commission prefers not to start a new proceeding, as Legal Staff recommends, finding it to be administratively more efficient to simply reopen this case.

The Commission agrees with Elk Valley and Staff that the petition should be granted. Elk Valley is operating the consolidated district in compliance with the Commission's order approving the consolidation. All the terms, conditions and covenants contained in the Elk-Pinch and Big Sandy bond resolutions have been complied with, and all payments due on the bonds and the reserve accounts are current. While it may reasonably be implied from the consolidation order, that the Commission consented to Elk Valley's assumption of the outstanding bonded indebtedness of Big Sandy and Elk-Pinch, the Commission shall expressly state, as WDA requests, that it approves of Elk Valley's assumption of the outstanding indebtedness of the former Big Sandy and Elk-Pinch PSDs.

FINDINGS OF FACT

1. On February 1, 2002, Elk Valley petitioned to reopen this case for approval of Elk Valley's assumption of outstanding debt incurred by the former Elk-Pinch and Big Sandy PSDs. Petition p. 1. Elk Valley is the successor by merger to the consolidation of the Elk-Pinch and Big Sandy PSDs, which the Commission approved on February 19, 1999. Id.

2. Big Sandy and Elk-Pinch each issued revenue bonds that are held by WDA.

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of West Virginia
Charleston

Id. WDA asked Elk Valley to seek the Commission's approval of Elk Valley's assumption of the outstanding bonded indebtedness of Big Sandy and Elk-Pinch. Id. p. 2.

3. All the terms, conditions and covenants contained in the Elk-Pinch and Big Sandy bond resolutions have been complied with, and all payments due on the bonds and the reserve accounts are current. Id.

4. On February 8, 2002, Staff recommended that the petition be granted. Initial & Final Joint Staff Memorandum p. 1 & Initial & Final Internal Memorandum p. 1, attached.

CONCLUSIONS OF LAW

1. This case should be reopened to consider Elk Valley's request.

2. The Commission agrees with Elk Valley and Staff that the petition should be granted. Elk Valley is operating the consolidated district in compliance with the Commission's order approving the consolidation. All the terms, conditions and covenants contained in the Elk-Pinch and Big Sandy bond resolutions have been complied with, and all payments due on the bonds and the reserve accounts are current. While it may reasonably be implied from the consolidation order that the Commission consented to Elk Valley's assumption of the outstanding bonded indebtedness of Big Sandy and Elk-Pinch, the Commission shall expressly state, as WDA requests, that it approves of Elk Valley's

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of West Virginia
Charleston

assumption of the outstanding indebtedness of the former Big Sandy and Elk-Pinch PSDs.

ORDER

IT IS THEREFORE ORDERED that this case is reopened.

IT IS FURTHER ORDERED that Elk Valley's petition is granted. The Commission approves of Elk Valley's assumption of the outstanding indebtedness of the former Big Sandy and Elk-Pinch PSDs.

IT IS FURTHER ORDERED that this proceeding be removed from the Commission's docket of active cases.

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

JAMES D. WILLIAMS, Chairman

MARTHA Y. WALKER, Commissioner

CHARLOTTE R. LANE, Commissioner

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Public Service Commission
of West Virginia
Charleston

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BOOK 247 PAGE 574

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 11th day of September, 2003, the following order was made and entered:

The following motion was offered by DAVE HARDY, COMMISSIONER:

The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of James C. Smith, a member of the ELK PUBLIC SERVICE DISTRICT doth ORDER that James C. Smith of 500 Heather Drive, Elkview, WV 25071, be reappointed to the ELK PUBLIC SERVICE DISTRICT for a term expiring August 15, 2009.

It is further ORDERED that the said shall appear at the office of the County Commission and shall qualify by taking the oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The adoption of the foregoing motion having been moved by DAVE HARDY, Commissioner, and duly seconded by HENRY C. SHORES, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	AYE
Henry C. Shores, Commissioner	AYE
Dave Hardy, Commissioner	AYE

WHEREUPON, W. Kent Carper, President declared said motion duly adopted; and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

Dave Hardy, Commissioner

Approved By:
County Attorney

2005-177

At a Regular Meeting of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 12th day of April, 2005, the following Order was made and entered:

SUBJECT: ORDER REAPPOINTING W. LAWRENCE "SONNY" WAGONER TO THE ELK VALLEY PUBLIC SERVICE DISTRICT (Term *Expires April 30, 2011*)

The following motion was offered by W. Kent Carper Commissioner:

The County Commission of Kanawha County, West Virginia, does ORDER that W. Lawrence "Sonny" Wagoner be reappointed to the Elk Valley Public Service District.

It is further ORDERED that the said W. Lawrence "Sonny" Wagoner shall appear at the office of the County Commission and shall qualify by taking the oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931 as amended.

The adoption of the foregoing motion having been moved by W. Kent Carper, Commissioner, and duly seconded by Henry C. Shores, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	AYE
Henry C. Shores, Commissioner	AYE
Dave Hardy, Commissioner	AYE

WHEREUPON, W. Kent Carper, President, declared said motion duly adopted, and it is therefore ADJUDGED and ORDERED that said motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

Dave Hardy, Commissioner

Approved By:

County Attorney

Post-It® Fax Note	7671	Date 7/22	# of pages ▶ 4
To Bill Bragg		From Rachelle Morrison	
Co./Dept. Goodwin & Goodwin		Co. Co. Commission	
Phone # FAX 344-9692		Phone # 357-0109	
Fax # Phone 346-7000		Fax # As requested	

2008-503

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 24th day of July, 2008, the following Order was made and entered:

SUBJECT: Appointment of Doug Stump to the Elk Valley Public Service District to replace James Clendenin (*Term to Expire March 1, 2014)*

The following Motion was offered by Dave Hardy, Commissioner:

The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of James Clendenin as a member of the Elk Valley Public Service District, doth ORDER that Doug Stump, 12 Senaca Hills Drive, Charleston, Elkview, West Virginia, 25071, be appointed to the Elk Valley Public Service District, for a term expiring March 1, 2014.

It is further ORDERED that the said Doug Stump shall appear at the office of the County Commission and shall qualify by taking the oath of office as required in Chapter 16, Article 13A, Section 3, of the Code of West Virginia, 1931, as amended.

The adoption of the foregoing Motion having been moved by:

Dave Hardy, Commissioner, and duly seconded by:

Henry C. Shores, Commissioner, the vote thereon was as follows:

W. Kent Carper, President	Aye
Henry C. Shores, Commissioner	Aye
Dave Hardy, Commissioner	Aye

WHEREUPON, W. Kent Carper, President declared said Motion duly adopted; and it is therefore **ADJUDGED** and **ORDERED** that said Motion be, and the same is hereby adopted.

W. Kent Carper, President

Henry C. Shores, Commissioner

Dave Hardy, Commissioner

Approved by:

Marc J. Slotnick, County Attorney

Post-it® Fax Note 7671 | Date 7/28 | # of pages 3
To Bill Bragg | From Rachelle Morrison
Co./Dept. | Co.
Phone # | Phone # 357-0109
Fax # As requested | Fax #

FIDUC 256 299
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10/09/2003 12:49:02 PM
Alma Y. King
County Clerk
Kanawha County, WV

Deed Tax	0.00
Recording Fee	0.00
TOTAL	0.00

03470

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, [redacted], having been duly appointed to the Office of EIK Public Service District

do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgment, so help me, God.

[redacted]
Signature

Subscribed and sworn to before the undersigned, County Clerk of said county,
This 24th day of September, 2003.

[redacted]
Deputy County Clerk

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, W. Lawrence "Sonny" Wagoner, having been duly reappointed to the Elk Valley Public Service District, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgment, so help me, God.

W. Lawrence "Sonny" Wagoner

Subscribed and sworn to before the undersigned, Notary Public of said County, this 12th day of April, 2005.

Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
RACHELLE MORRISON
P. O. BOX 403
WINFIELD, WV 25213-0403
My Commission Expires May 9, 2011

[NOTARIAL STAMP]

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, Doug Stump, having been duly appointed to the Elk Valley Public Service District, do solemnly swear that I will support the Constitution of the United States and the Constitution of this State and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgment, so help me, God.

F. Douglas Stump
Doug Stump

Subscribed and sworn to before the undersigned, Notary Public of said County, this 24 **day of** July, **2008.**

My commission expires September 11, 2017.

Tammie L. Chandler
Notary Public

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
TAMMIE L. CHANDLER
23 Geronimo Drive
St. Albans, WV 25177
My Commission Expires Sept. 11, 2017

[NOTARIAL SEAL]

RULES OF PROCEDURE

ELK VALLEY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

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

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

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

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

ARTICLE II

PURPOSE

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

ARTICLE III

MEMBERSHIP

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

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

Section 3. The District shall provide to the Public Service Commission of West Virginia, within 30 days of the appointment, the following information: the new board member's name, home

address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board, and such other information required under the Act.

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

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

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

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

ARTICLE IV

MEETINGS OF THE BOARD

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

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

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

Section 4. Pursuant to Chapter 6, Article 9A, Section 3 of the Code of West Virginia,

1931, as amended, notice of the date, time, place and agenda of all regularly scheduled meetings of the Board, and the date, time, place and purpose of all special meetings of the Board, shall be made available, in advance, to the public and news media as follows:

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

The Secretary shall distribute to each of the newspapers and other news media listed below a notice identical to that posted if such newspapers and other news media have submitted a written request that such notices be provided to them:

News Media	Address
The Charleston Gazette	1001 Virginia St. E., Charleston, WV 25301
Charleston Daily Mail	1001 Virginia St. E., Charleston, WV 25301

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed.

Rule No. 2. Notice of Special Meetings. Not less than 24 hours prior to the date set for any special meeting of the Board, the Secretary shall, post at the regular meeting place of the Board, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 24 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

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

Rule No. 3. Emergency Meetings. The Board may hold a meeting without

providing the notice to the public and news media required by Rule No. 1 and Rule No. 2 hereof only in the event of an emergency requiring immediate official action. The existence for such an emergency requiring immediate official action shall be determined by the Board and shall be attested to in a certificate by the Secretary describing such emergency and setting forth the reason or reasons immediate official action is required, which certificate shall be attached to and made a part of the minutes of such emergency meeting.

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

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

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

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

Rule No. 7. Telephonic Meetings. Board meetings may be held by telephone conference or other electronic means. All Board members participating by telephone or other electronic means must be audible to all those personally present.

Section 5. All persons who intend to address the Board shall sign a document 15 minutes before the regularly scheduled meeting stating their name, address and purpose of discussion. The Board may limit the time of each presentation.

ARTICLE V

OFFICERS

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

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

ARTICLE VI

DUTIES OF OFFICERS

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

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

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

Section 4. The Treasurer shall be the lawful custodian of all funds of the District and

shall pay same out on orders authorized or approved by the Board. The Treasurer shall 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. The Treasurer shall keep and preserve all financial records of the District for 10 years and shall at all times have such records readily available for public inspection. At the end of his term of office, the Treasurer shall promptly deliver all financial records of the District to his successor in office. He shall also perform such other duties as may be required of him by law or as may be conferred upon him from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

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

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

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

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

Adopted this 27th day of May, ~~2008~~.

Chairman and Member

Member

ABSENT
Member

CERTIFICATION

I, F. Douglas Stump, Secretary of the Public Service Board of the Elk Valley Public Service District, hereby certify that the foregoing is a true and correct copy of the Rules of Procedure of said Public Service Board adopted on May 27, 2008. I further certify that such Rules of Procedure remain in full force and effect and have not been amended or repealed.

WITNESS my signature as of the 12th day of August, 2008.

ELK VALLEY PUBLIC SERVICE DISTRICT
CORPORATE SEAL
(SEAL)
WEST VIRGINIA

F. Douglas Stump
Secretary

Elk Valley Public Service District

100 Bream Drive, Elkview, WV 25071 (304)965-1676

July 29, 2008

Commissioner James Smith called the meeting to order at 2:13 p.m. on July 29, 2008. Those members in attendance were James Smith, Chairman, F. Douglas Stump, Secretary, and Sonny Wagoner (via conference call), Vice Chairman/Treasurer. Also, in attendance was Tim Chapman, Manager, Kathie Moore, Minutes, Bill Cunningham and Paul Ghosh of Ghosh Engineers, Mike Spiker and Bill Bragg of Goodwin & Goodwin.

Mr. Stump moved to approve the June 25, 2008 minutes, Mr. Smith seconded the motion, motion passed.

Waste Water Treatment Plant Upgrade - Phase I Project - The District's counsel, Michael Spiker and William Bragg Jr. of Goodwin & Goodwin, filed an Amended Petition to Reopen and Request for expedited treatment of less than 30 day public notification for the District's new rate increase to cover Project bid overruns for Certificate of Convenience and Necessity CASE NO.: 07-1024-PSD-CN. The WVPSC received the Amended Petition and mandated a 10 day public notification period without an individual notice of the rate increase to each of the District's customers.

Public notification was placed in the Charleston Gazette on July 18, 2008 for the Amended Petition. Mr. Spiker said he wasn't aware of any notification from the Public Service Commission of any protests, and there were no protests received by the District. Mr. Spike will contact the Public Service Commissions attorney to request an opinion on the Petition.

Annual Election of Board Members - Mr. Stump nominated James C. Smith as Chairman, W. Lawrence "Sonny" Wagoner as Vice Chairman/Treasure, and F. Douglas Stump as Secretary, and Timothy C. Chapman as the Assistant Secretary. Mr. Wagoner second the nomination, and it was unanimously passed.

Bond Resolution and Supplemental Bond Resolution - see attached MINUTES ON ADOPTION OF BOND AND SUPPLEMENTAL RESOLUTIONS.

United National Bank - Mr. Wagoner motioned to approve the resolution to open a new account at United National Bank. Mr. Stump seconded the motion, motion unanimously passed.

Property Right-Of-Way - The District needs write a letter to confirm all property involved in the upgrade has been aquired. All contracts have been signed for the Railroad right-of-way exchange. The Big Chimney Lift Station easement needs to be signed by O. V. Smith & Sons. The Pinch Creek Lift Station force main reroute right-of-way issues have not been settled with property owners in the area.

Mr. Wagoner made a motion to authorize condemnation of property or to purchase property for the easement. Mr. Stump seconded the motion, and motion unanimously passes.

In exchange for the Big Chimney right-of-way Mr. Smith asked for 20 free taps within 20 years (taps are $250.00 each).

Mr. Wagoner motioned to approve the agreement between Elk Valley Public Service District and O. V. Smith & Sons for the exchange of the Big Chimney Lift Station right-of-way for twenty free taps within a twenty-year time. Mr. Stump seconded the motion, motion passes. Mr. Smith abstained from voting.

A resolution was made to authorize the award of the contracts to the low bidders, Contract I to Hasylett Construction, Contract II to Eastern State Pumps & Equipment, and authorization that any officer of the Elk Valley Public Service District Board can sign the contract documents. Mr. Stump motioned to approve the resolution, Mr. Smith seconded the motion, motion passes.

A resolution was made for issuance of Notice of Award on Contract I and Contract II immediately after bond closing. Mr. Stump motioned to approve resolution, Mr. Smith seconded the motion, motion passes.

A resolution was made to withdraw funds, for Requisition 1 and expenses paid by the District's operational funds listed on exhibit A, from the SRF loan. Mr. Stump motioned to approve the resolution. Mr. Smith seconded the motion, motion passes.

Robert Weidlich - Mr. Spiker wrote a letter in response to Mr. Weidlich's request for sewer charges paid to the District to be reimbursed. Mr. Weidlich has not responded to the letter.

Operation and Accounting Report - The Commissioners reviewed the budget and Municipal Bond Reports for the month ending June 30, 2008. Mr. Stump motioned to accept the report, Mr. Smith seconded the motion, motion passed.

Payment of Invoices - Mr. Stump motioned to approve the invoice from John Blackwell C.P.A. Mr. Smith seconded the motion, motion passed.

Pay Raises - Commissioners will review current pay rates and decision will be made at the next board meeting.

Mr. Smith motioned to approve a withdraw in the amount of $4,000 from the Big Sandy Grinder Account to reimburse expenditures from the District's regular operating budget on the Big Sandy pump stations. Mr. Stump seconded the motion, motion passes.

The next board meeting has been scheduled for Tuesday, August 26, 2008 at 2:00 p.m.

Mr. Stump motioned to adjourn the meeting at 4:10 p.m. Mr. Smith seconded the motion, motion passed.

James C Smith
Chairman
August 4, 2008

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

MINUTES ON ADOPTION OF BOND AND SUPPLEMENTAL RESOLUTIONS

I, Doug Stump, Secretary of the Public Service Board of the Elk Valley Public Service District, hereby certify that the following is a true and correct excerpt of the minutes of a meeting of said Public Service Board:

* * * * * * * * *

The Public Service Board of Elk Valley Public Service District met in regular session, pursuant to notice duly given, on the 29th day of July, 2008, at its offices in Elk Valley, West Virginia, at the hour of 2:00 P.M.

PRESENT:	James C. Smith	Chairman
	Sonny Wagoner (via conference call)	Vice Chairman/Treasurer
	Doug Stump	Secretary
ABSENT:	None	
STAFF:	Tim Chapman	
	Kathy Moore	
GUESTS:	Paul Ghosh, Ghosh Engineers, Inc.	
	Bill Cunningham, Ghosh Engineers, Inc.	
	Mike Spiker, Goodwin & Goodwin, LLP	
	Bill Bragg, Goodwin & Goodwin, LLP	

James C. Smith, Chairman, presided, and Kathie Moore 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. He stated that the proposed Bond Resolution would be subject to protests and suggestions from any interested person at this time in accordance with the publication of an abstract of the Bond Resolution and a Notice of Meeting, which publication has been duly made, and the Chairman called for protests and suggestions as to said Resolution, and all persons desiring to protest said Resolution or to make any suggestions with reference thereto were heard.

There being no protests or suggestion made as to said Bond Resolution, the Chairman thereupon stated that it would be in order to consider said Bond Resolution for adoption, and the Chairman presented the proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF ELK VALLEY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $18,061,117 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER REVENUE BOND, SERIES 2008 A (WEST VIRGINIA SRF PROGRAM), AND NOT MORE THAN $1,183,677 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B (WEST VIRGINIA WDA PROGRAM); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNER OF SUCH BOND AND NOTE; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BOND AND NOTE; APPROVING, RATIFYING AND CONFIRMING A LOAN AGREEMENT RELATING TO SUCH BOND; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BOND AND NOTE; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

The Chairman then stated that it would be in order to consider a Supplemental Resolution for adoption, and the Chairman presented the 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 ELK VALLEY PUBLIC SERVICE DISTRICT SEWER REVENUE BOND, SERIES 2008 A (WEST VIRGINIA SRF PROGRAM) AND SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B (WEST VIRGINIA WDA PROGRAM); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE SERIES 2008 A BOND TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY AND THE SERIES 2008 B NOTE TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENT WITH RESPECT TO THE SERIES 2008 A BOND AND THE SERIES 2008 B NOTE; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BOND AND THE NOTE.

and caused the same to be read and there was discussion. Thereupon, on motion of Mr. Stump and seconded by Mr. Wagoner, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

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

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

Chairman

Member

Member

* * * * * * * * *

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

WITNESS my signature as of this 29th day of July, 2008.

Secretary

NOTICE TO RESIDENTS OF ELK VALLEY PUBLIC SERVICE DISTRICT AND OTHER PERSONS INTERESTED IN RESOLUTION FOR PROPOSED ISSUANCE OF $18,061,117 SEWER REVENUE BOND, SERIES 2008 A (WEST VIRGINIA SRF PROGRAM) AND $1,183,677 SEWER GRANT ANTICIPATION NOTE, SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

Pursuant to the provisions of West Virginia Code Chapter 6, Article 9A, Section 6, and in accordance with the provisions of West Virginia Code Chapter 16, Article 13A, Chapter 22C, Article 1, and Chapter 22C, Article 2, as amended, you hereby notified that a regular meeting of the Public Service Board (the "Board") of the Elk Valley Public Service District (the "Public Service District") will be held on the 29th day of July, 2008, to consider for adoption a Resolution entitled "Resolution Authorizing the Acquisition, Construction and Equipping of Improvements and Extensions to the Existing Public Sewerage Facilities of Elk Valley Public Service District and the Financing of the Cost, Not Otherwise Provided Thereof, Through the Issuance by the District of Not More Than $18,061,117 In Aggregate Principal Amount of its Sewer Revenue Bond, Series 2008 A (West Virginia SRF Program), and Not More Than $1,183,677 in Aggregate Principal Amount of its Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program); Providing for the Rights and Remedies of and Security for the Registered Owner of Such Bond and Note; Authorizing Execution and Delivery of all Documents Relating to the Issuance of Such Bond and Note; Approving, Ratifying and Confirming a Loan Agreement Relating to such Bond; Authorizing the Sale and Providing for the Terms and Provisions of such Bond and Note; and Adopting Other Provisions Relating Thereto" (the "Resolution"), to authorize the issuance of Sewer Revenue Bond, Series 2008 A (West Virginia SRF Program) (the "Bond") and Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) (the "Note"), of the Public Service District in the amounts of $18,061,117 and $1,183,677, respectively. The Bond and Note will provide a portion of the funds to finance the cost of the acquisition, construction and extension of additions, betterments and improvements for the existing sewer system of the Public Service District including the construction of new lines and other improvements within the Public Service District.

The entire amount of the principal of and interest on the Bond will be paid solely and only from the revenues received from operation of the sewer system of the Public Service District to be amortized over a period of 40 years. The Bond will bear interest at the rate of 0% per annum, plus an SRF Administrative Fee of 1/2% per annum.

The entire amount of the principal of and interest on the Note will be paid solely and only from the proceeds of a grant or grants made available to the Public Service District subsequent to the issuance of the Note to permanently finance the costs of design, acquisition and construction of the Project and Surplus Revenues from the operation of the sewer system of the Public Service District. The Note will mature 2 years from its date of issuance and bear interest at the rate of 3% per annum, payable at maturity.

A copy of the Resolution and a copy of the plans and specifications of the Project are available for examination by any interested person at the office of the Clerk of the County Commission of Kanawha County and at the Public Service District office in Elkview, during regular office hours of such offices, which are from 8:00 a.m. to 4:00 p.m., Monday through Friday.

The meeting will be held at the Public Service District's office at 106 Bream Drive, Elkview, West Virginia, on the 29th day of July, 2008 at 2:00 p.m., and any person or persons interested may appear before the Board and be heard as to whether or not the Resolution shall be put into effect. The Board will hear all suggestions, protests and objections to the issuance of the Bond and Note.

Dated this 11th day of July, 2008.

ELK VALLEY PUBLIC SERVICE DISTRICT
Kanawha County,
West Virginia
Jim Smith, Chairman
James Clendenin,
Secretary

(349276)

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION / REFERENCE NBR PURCHASE ORDER #	AD NUMBER	AD SIZE / TOTAL RUN	RATE	GROSS AMOUNT	NET AMOUNT
07/14	LEG	GZ	Elk Valley PSD - Sew 519810001	0349276	1X1525 15.25	8.82	134.51	134.51
			TOTAL INVOICE AMOUNT					134.51

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

I, Sandra Riggs of

THE CHARLESTON GAZETTE,
do solemnly swear that the legal notice of:
Elk Valley PSD - Sewer R
was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:
07/14/08-07/14/08

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LYNN R. FIELDER
253 FRAZIER WAY
SCOTT DEPOT, WV 25560
My commission expires December 11, 2016

Subscribed and sworn to before me this 17 day of July.

Lynn R Fielder
Notary Public of Kanawha County, West Virginia

FILE COPY

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GOODWIN & GOODWIN, LLP
300 SUMMERS STREET, SUITE 1500
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www.goodwingoodwin.com

201 THIRD STREET
PARKERSBURG, WEST VIRGINIA 26101
(304) 485-2345

P.O. BOX 349
500 CHURCH STREET
RIPLEY, WEST VIRGINIA 25271
(304) 372-2651

August 12, 2008

Ms. Sara Boardman, Executive Director
West Virginia Municipal Bond Commission
1207 Quarrier Street, Suite 401
Charleston, WV 25301

Re: Elk Valley Public Service District
Sewer Revenue Bond, Series 2008 A (State Revolving Fund)

Dear Ms. Boardman:

Enclosed please find a revised New Issue Report Form for the above-referenced bond. Please replace the report that I submitted to you under cover of a letter dated August 8, 2008. The attached report revises the amount of the 1st debt service amount and omits the amount of the administrative fee that was included in the amount reflected in the prior report.

Sincerely yours,

William K. Bragg, Jr.

WKB/aks
Enclosure

WV MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: August 12, 2008

ISSUE: Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund)
ADDRESS: 100 Bream Drive
Elkview, WV 25701

COUNTY: Kanawha

PURPOSE OF ISSUE: New Money X
ISSUE DATE: AUGUST 12, 2008
ISSUE AMOUNT: $18,061,117
1ST DEBT SERVICE DUE: September 1, 2011
1ST DEBT SERVICE AMT.:$150,510.00

CLOSING DATE: AUGUST 12, 2008
RATE: 0%; ADMINISTRATIVE FEE: 0.5%
1ST PRINCIPAL DUE: September 1, 2011
PAYING AGENT: Municipal Bond Comm.

BOND COUNSEL: Goodwin & Goodwin, LLP
Contact Person: W.K. Bragg, Jr.
Phone 346-7000

LENDER: West Virginia Department of Environmental Protection
Contact Person: Rosalie Brodersen
Phone: (304) 926-0496 Ext. 1608

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Timothy C. Chapman
Position: General Manager
Phone: (304) 965-1676

----------DEPOSITS TO MBC AT CLOSE----------

By ___ Wire
___ Check

___ Accrued Interest: $ 0
___ Capitalized Interest: $ 0
___ Reserve Account: $ 0
___ Other: $ 0

----------REFUNDS & TRANSFERS BY MBC AT CLOSE----------

By ___ Wire
___ Check
___ IGT

___ To Escrow Trustee: $ N/A
___ To Issuer: $ N/A
___ To Cons. Invest. Fund: $ N/A
___ Other: _____ $_____

Notes: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS
REQUIRED: _____
TRANSFERS
REQUIRED: _____

WV MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: August 8, 2008

ISSUE: Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)
ADDRESS: 100 Bream Drive
Elkview, WV 25701
COUNTY: Kanawha
PURPOSE OF ISSUE: New Money X
ISSUE DATE: AUGUST 12, 2008
CLOSING DATE: AUGUST 12, 2008
ISSUE AMOUNT: $1,183,677
RATE: 3%
1ST DEBT SERVICE DUE: August 12, 2010
1ST PRINCIPAL DUE: August 12, 2010
1ST DEBT SERVICE AMT.:$1,183,677*
PAYING AGENT: Municipal Bond Comm.

BOND COUNSEL: Goodwin & Goodwin, LLP
Contact Person: W.K. Bragg, Jr.
Phone 346-7000

LENDER: West Virginia Water Development Authority
Contact Person: Barbara Meadows
Phone: (304) 558-3612

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Timothy C. Chapman
Position: General Manager
Phone: (304) 965-1676

----------DEPOSITS TO MBC AT CLOSE----------

___ Accrued Interest: $ 0
___ Capitalized Interest: $ 0
By _X_ Wire ___ Reserve Account: $ 0
___ Check ___ Other: $ 0

----------REFUNDS & TRANSFERS BY MBC AT CLOSE----------

___ To Escrow Trustee: $ N/A
By ___ Wire ___ To Issuer: $ N/A
___ Check ___ To Cons. Invest. Fund: $ N/A
___ IGT ___ Other: _____ $_____

---

* Subject to amount advanced, if any, and interest accrued.

Notes: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: _____
TRANSFERS REQUIRED: _____

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

ACCEPTANCE OF APPOINTMENT OF DEPOSITORY BANK

United Bank, Inc, at its office located in Big Chimney, Kanawha County, West Virginia, hereby accepts appointment as Depository Bank in connection with a Resolution of Elk Valley Public Service District (the "District") duly adopted by the Public Service Board of the District (the "Board") on July 29, 2008, and supplemented by a Supplemental Resolution adopted by the Issuer on July 29, 2008 (collectively, the "Resolution"), authorizing issuance of Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund), and the Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), both dated August 12, 2008, in the principal amounts of $18,061,117 and $1,183,677, respectively, and agrees to perform all duties of Depository Bank as set forth in the Resolution.

Witness my signature as of the 12th day of August, 2008.

UNITED BANK, INC.

By: Linda K Stoffle VP
Branch Manager

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

ACCEPTANCE OF APPOINTMENT OF REGISTRAR

United Bank, Inc, at its office located in Charleston, Kanawha County, West Virginia, hereby accepts appointment as Registrar in connection with a Resolution of Elk Valley Public Service District (the "District") duly adopted by the Public Service Board of the District (the "Board") on July 29, 2008, and supplemented by a Supplemental Resolution adopted by the Issuer on July 29, 2008 (collectively, the "Resolution"), authorizing the issuance of Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund), and the Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program), both dated August 12, 2008, in the principal amounts of $18,061,117 and $1,183,677, respectively, and agrees to perform all duties of Registrar as set forth in the Resolution.

Witness my signature as of the 12th day of August, 2008.

UNITED BANK, INC.

By: _____
Vice President

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 12th day of August, 2008, by and between ELK VALLEY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision duly created under the laws of the State of West Virginia (the "Issuer"), and UNITED BANK, INC., at its office located in Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $18,061,117 aggregate principal amount of Sewer Revenue Bond, Series 2008 A (State Revolving Fund) in fully registered form (the "Bond") and its $1,183,677 aggregate principal amount of Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program) in fully registered form (the "Note") pursuant to a Bond Resolution adopted by the Issuer on July 29, 2008, as amended by a Supplemental Resolution adopted by the District on July 29, 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 the appointment by the Issuer of a Registrar for the Bond and Note; and

WHEREAS, the Issuer desires to appoint, and by the Resolution and 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 the Registrar, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and deliver the Bond and Note upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exemption of interest on the Bond and Note from federal income taxation, in accordance with any rules and regulations promulgated by the United States 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 the 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 Resolution, the terms of the Resolution 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 sixty (60) days' written notice sent by registered or certified mail to the other party, at the following respective addresses:

ISSUER: Elk Valley Public Service District
Attention: Chairman
100 Bream Drive
Elk Valley, WV 25701

REGISTRAR: United Bank, Inc.
Attention: Kathy Smith
500 Virginia Street, East
Charleston, WV 25301

8. The Registrar is hereby requested and authorized to register, authenticate and deliver the Bond and Note in accordance with the Resolution and instructions provided by the Issuer.

IN WITNESS WHEREOF, ELK VALLEY PUBLIC SERVICE DISTRICT and UNITED BANK, INC. have caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day, month and year first above-written.

ELK VALLEY PUBLIC SERVICE DISTRICT

By: _____
Chairman

UNITED BANK, INC.

By: _____
Vice President

Exhibit A

(Bond Resolution)

$18,061,117
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)
and
$1,183,677
ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER GRANT ANTICIPATION NOTE
SERIES 2008 B (WEST VIRGINIA WDA PROGRAM)

CERTIFICATE OF REGISTRATION

I, Kathy Smith, as Vice President, of United Bank, Inc., as Registrar (the "Registrar"), under a Registrar's Agreement between the Registrar and the Elk Valley Public Service District (the "District") dated as of the date hereof, hereby certify that on the 12th day of August, 2008, the Bond and Note of the District in the principal amounts of $18,061,117 and $1,183,677, designated "Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund)" and "Elk Valley Public Service District, Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)", and numbered AR-1 and BR-1, respectively, dated as of the date hereof, were registered as to principal only in the name of "The West Virginia Water Development Authority", on the books of the Registrar kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature as of the 12th day of August, 2008.

UNITED BANK, INC., as Registrar

By: _____
Vice President

ELK-PINCH PUBLIC SERVICE DISTRICT

RESOLUTION

RESOLUTION RECONFIRMING AUTHORIZATION OF THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWAGE FACILITIES OF ELK-PINCH PUBLIC SERVICE DISTRICT AND AUTHORIZING THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $6,509,563.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, A PORTION OF THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS AND MONIES OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, SHALL BE, USED TO DISCHARGE THE 1984 NOTES, AND; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF 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 THE ELK -PINCH PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any resolutions supplemental hereto, the "Bond Legislation") is enacted 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. The Elk-Pinch Public Service District (the "Issuer") is a public service district and a public corporation of the State of West Virginia in Kanawha County of said State.

B. It is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be constructed certain sewerage collection and treatment facilities of the Issuer (the "Project") which constitute properties for the collection and treatment of liquid or solid wastes, sewage or industrial wastes (the existing facilities, if any, the Project, and any additions thereto or extensions thereof is herein called the "System") at an estimated cost of $30,696,053, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Chairman of the Issuer, along with change orders and field changes approved by the Issuer.

C. The estimated revenues to be derived in each year after the enactment hereof 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 on the Bonds (as hereinafter defined) and all Sinking Fund, Reserve Account and other payments provided for herein.

D. It is deemed necessary for the Issuer to issue its Sewerage System Revenue Bonds, Series 1987, in part to finance the costs of the Project and in part to provide for paying the 1984 Notes and the interest thereon.

E. The following Notes are presently outstanding: The Sewerage System Refunding Notes, Series 1984A, dated September 17, 1984, (the "Series 1984A Notes") issued in the original principal amount of $4,464,500, all of which principal amount remains outstanding on the date of enactment hereof, and the Refunding Notes, Series 1984, dated September 17, 1984, (the "Refunding Notes") issued in the original principal amount of $900,000, all of which principal amount remains outstanding on the date of enactment hereof. (Collectively the "1984 Notes").

F. The 1984 Notes outstanding as of the date of enactment of this resolution are hereby ordered to be refunded in whole. The liens of the 1984 Notes imposed on the revenues and other assets of the System are hereby terminated, discharged and released upon payment of or the deemed payment of the 1984 Notes at the delivery of the Series 1987 Bonds. Upon such payment or deemed payment all prior resolutions adopted by the District regarding the 1984 Notes shall be null and void, and any indentures relating thereto shall be discharged.

G. The period of usefulness of the System after completion of the Project is not less than 40 years.

H. It is in the best interests of the Issuer that its 1987 Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement (the

"Loan Agreement") previously entered into between the Issuer and the Authority.

I. There are not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment.

J. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired without successful rehearing or appeal.

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 and any other Bonds, 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 Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Issuer or any acting Chairman duly appointed by the District.

"Bondholder" or "Holder of the Bonds" 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" means this resolution and all resolutions supplemental hereto or amendatory hereof.

"Bonds" means the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"Bond Year" means the twelve (12) month period beginning on the anniversary date of the closing date each year and terminating on the day prior to the anniversary date of the closing date in the following year, except that the first Bond Year shall begin on the closing date.

"Chairman" means the Chairman of the Elk-Pinch Public Service District, the Issuer.

"Loan Agreement") previously entered into between the Issuer and the Authority.

I. There are not outstanding any obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien and source of and security for payment.

J. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Bonds or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired without successful rehearing or appeal.

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 and any other Bonds, 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 Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Issuer or any acting Chairman duly appointed by the District.

"Bondholder" or "Holder of the Bonds" 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" means this resolution and all resolutions supplemental hereto or amendatory hereof.

"Bonds" means the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"Bond Year" means the twelve (12) month period beginning on the anniversary date of the closing date each year and terminating on the day prior to the anniversary date of the closing date in the following year, except that the first Bond Year shall begin on the closing date.

"Chairman" means the Chairman of the Elk-Pinch Public Service District, the Issuer.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended.

"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.

"Consulting Engineers" means Kelley, Gidley, Blair and Wolfe, Inc., Charleston, West Virginia, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Costs" or "Costs of the Project" means the cost of all property rights, easements and franchises deemed necessary or convenient therefor; engineering and legal expenses; expenses for estimates of cost and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, discount, initial fees for the services of registrars, paying agents, depositories or trustees, fees and expenses of the Water Development Authority or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incident to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation,

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 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

"Depository Bank" means one or more banks designated as such in the Supplemental Resolution, and their successors and assigns.

"EPA" means the United States Environmental Protection Agency and any successor to the functions of the EPA.

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Bonds, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

"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 Elk-Pinch Public Service District and shall include the membership of the Board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Elk-Pinch Public Service District.

"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

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all monies received by the Issuer on account of any Grant; provided that "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as

interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior bonds and which are deemed to become proceeds of the Bonds ratably a original proceeds of the Bonds, and interest earnin and profits resulting from investment of such original proceeds in Nonpurpose Investments, discharge the outstanding principal of any such pri obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts other than original proceeds, investment proceeds

transferred proceeds (as referenced in clauses (i) through (iii) above) of the Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Reserve Accounts and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

"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 Article 7.01 hereof) or any Tap Fees, as hereinafter defined, and for the furnishing by the Issuer of miscellaneous service.

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

"Independent Certified Public Accountants" shall mean any certified public accountant or firm of 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" means 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, excluding, however, obligations the interest on which is exclude from gross income, under Section 103 of the Code, for federal income tax purposes.

"Issuer" or "District" means the Elk-Pinch Public Service District in Kanawha County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean the Loan Agreement and the Supplemental Loan Agreement dated July 14, 1987, entered i between the Authority and the Issuer providing for the purchas

of the Original Bonds from the Issuer by the Authority, as such purchase, particularly with respect to the Supplemental Bonds, is described in the Supplemental Resolution.

"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 of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, fees and expenses of the Authority, fiscal agents, the Registrar, and the Paying Agent (all as hereinafter 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.

"Operation and Maintenance Fund" means the Operation and Maintenance Fund established by Section 4.01 hereof.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean that not more than $6,509,563.00 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1987, issued for the purpose of paying costs of construction and for such other purposes permitted hereby and authorized by a resolution supplemental hereto, which Bonds shall be issued in one or more series as determined by a resolution or resolutions supplemental hereto and which are originally authorized hereby.

"Other Grants" means collectively, the WDA Grant, together with any other grant hereafter received by the Issuer to aid in financing any Costs.

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon authenticated and delivered except (i) any Bond cancelled by the registrar therefor, at or prior to said date: (ii) any Bond for the payment of which monies, equal to its principal amount, with interest to the date of maturity, shall be in trust hereunder, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article IX hereof; and (iv) for

purposes of consents or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof, payable from Net Revenues on a parity with the Original Bonds.

"Paying Agent" means the bank or banks or other entities designated as such for the Bonds in the Supplemental Resolution.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain sewage collection, wastewater treatment facilities and transportation facilities including sewer mains, manholes, lift stations, treatment plant and all necessary appurtenances.

"Purchase Price" means for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the initial offering price of the Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Bonds of

each maturity is sold or, if the Bonds are privately placed, the price paid by the first buyer of the Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

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

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government

bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties; and

(h) The "Consolidated Fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended.

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

"Registrar" means the bank to be designated as such in the Supplemental Resolution and its successors and assigns.

"Renewal and Replacement Fund" means the Renewal an Replacement Fund established by Section 4.01 hereof.

"Regulations" means temporary and permanent regulations promulgated under the Code and includes applicable regulations promulgated under the Internal Revenue Code of 1954.

"Reserve Account" means the Reserve Account established in the Sinking Fund pursuant to Section 4.02 hereof.

"Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Bonds in any Fiscal Year.

"Revenue Fund" means the Revenue Fund established by Section 4.01 hereof.

"Secretary" means the Secretary of the public service board of the Issuer.

"Sinking Fund" means the Sinking Fund established by Section 4.02 hereof.

"State" means the State of West Virginia.

"Supplemental Reserve Account" means the Supplemental Reserve Account as established pursuant to Section 4.02 hereof.

"Supplemental Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Supplemental Bonds in any fiscal year.

"Supplemental Resolution" means any resolution 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 Original

Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Original Bonds, and not so included may be included in another Supplemental Resolution.

"Supplemental Sinking Fund" means the Supplemental Sinking Fund as required and defined by Section 4.02 hereof.

"System" means the complete properties of the Issuer for the collection, transportation and treatment of liquid or solid wastes, sewage or industrial wastes, in its entirety or any integral part thereof, and shall include the existing facilities, if any, the Project and any further additions, betterments and improvements thereto hereafter constructed or acquired for said system from any sources whatsoever.

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

"WDA Grant" means the grant from the West Virginia Water Development Authority pursuant to the commitment therefor.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Bonds produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

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.

ARTICLE II

AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. The Issuer hereby reconfirms the authorization of the construction and acquisition of the Project, in accordance with the plans and specifications which have been prepared by the Consulting Engineers and heretofore filed in the office of the Governing Body, along with change orders and field changes approved by the Issuer. Completion of the Project in accordance with said plans and specifications, and said approved changes, was substantially completed in October of 1984. The proceeds of the Bonds hereby authorized shall be applied as provided in Article V hereof.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purpose of paying Costs of the Project not otherwise provided for, to provide funds to be used to discharge the 1984 Notes, funding reserve accounts for the Original Bonds and paying certain costs of issuance and related costs, and for such other purposes as may be set forth in Supplemental Resolution, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than $6,509,563.00. Said Bonds shall be designated "Sewerage System Revenue Bonds, Series 1987," of one or more series as determined by the Supplemental Resolution, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Bonds shall be applied as hereinafter provided in Article V hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding 12% per annum, or such other rate as shall then be the legal maximum, payable semiannually 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. The Bonds shall be payable as to principal at the office of the Commission, 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 Bonds, shall be paid either by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by whatever manner is satisfactory to the Water Development Authority and the Issuer.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a payment schedule attached, representing the aggregate principal amount of the Bond issue, and shall mature in principal installments, all as provided in the Supplemental Resolution. Said Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds may be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. The registered Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The 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 Bonds shall cease to be such officer of the Issuer before the 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 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 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 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 form set forth in Section 3.09 shall have been manually executed by the 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 Bond shall be deemed to have been executed by the

Registrar if manually signed by an authorized officer of the 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 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 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 Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

So long as any of the Bonds remain outstanding, the Issuer, through the Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Bonds shall be transferable only upon the books of the 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 Registrar duly executed by the registered

owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Registrar. For every such exchange or transfer of Bonds, the 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 Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Registrar shall not be obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In any case any Bond becomes mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond 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 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 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 Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the

payments into the Sinking Fund and the Reserve Account therein hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Original 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:

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK-PINCH PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987

$_____

No. R-_____

KNOW ALL MEN BY THESE PRESENTS: That the ELK-PINCH PUBLIC SERVICE DISTRICT, a public corporation of the State of West Virginia in Kanawha County hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ ($_____), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit X hereto and incorporated herein by reference with interest on each installment at the rate per annum as set forth on said Exhibit X.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor and until payment of such installment, and such interest shall be payable on the 1st day of April, and the 1st day of October in each year beginning October 1, 1987. The principal of this Bond is payable in any coin or currency which, on the respective dates of payment of principal, 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

Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft mailed to the registered owner hereof at the address as it appears on the books of United National Bank, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month preceding the date of payment of such interest. So long as the Authority is the registered owner, this Bond shall not be subject to redemption prior to its stated date of maturity without the written consent of the Authority and the payment of interest and redemption premium and otherwise as provided for in the Loan Agreement by and between the Authority and the Issuer.

This Bond is issued together with other funds (i) to complete the financing of part of the cost of acquisition and construction of public sewerage facilities (the "Project") ; (ii) to pay additional costs of acquisition and construction of the Project, if necessary; (iii) to discharge and pay all outstanding 1984 Notes described in the Bond Legislation; and (iv) to fund the reserve account; and (v) to pay certain costs of issuance hereof and related costs. 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 the ____ day of August, 1987, and a Supplemental Resolution adopted by the Issuer on the ____ day of August, 1987

(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 security provided for the Bonds under the Bond Legislation.

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, money in the Reserve Account created under the Bond Legislation (the "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 a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitation, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. 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, along with other revenues of the System, shall be sufficient 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 required in any fiscal year for debt service on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds or, if the Reserve Account for the Bonds is funded (whether by proceeds of the Bonds, monthly deposits or otherwise) at least at the amount required to pay the maximum amount of principal and interest which will become due on the Bonds in any fiscal year, and any reserve account for such prior or parity obligations is funded at least at the requirement therefor, equal to at least 110% of the maximum amount required in any fiscal year for debt service on the Bonds and any such prior or parity obligations. 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.

This Bond is transferable, as provided in the Bond Legislation, only upon the books kept for that purpose at the office of 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 such provisions regarding registration, this Bond, under the provisions of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project, if necessary, described in the Bond Legislation or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the 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 and interest on 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, THE ELK-PINCH PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary and has caused this Bond to be dated August _____, 1987.

(SEAL)

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

UNITED NATIONAL BANK,
as Bond Registrar

By: _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

[form of assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfer 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: _____, _____.

_____

In the presence of:

_____

Section 3.10. Sale of Original Bonds; Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. The Chairman has been specifically authorized and directed to execute the Loan Agreement, and the Secretary was directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, all of which is hereby ratified, confirmed and approved.

ARTICLE IV

SYSTEM REVENUES AND APPLICATION THEREOF

Section 4.01. Establishment of Funds and Account with Depository Bank. The following special funds or accounts are created with and shall be held by, the Depository Bank:

(1) Revenue Fund;

(2) Operation and Maintenance Fund;

(3) Renewal and Replacement Fund; and

(4) Earnings Fund

(5) Rebate Fund

(6) Bond Construction Trust Fund.

(a) Within the Bond Construction Trust Fund, the following:

(7) Costs of Issuance Fund

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

(1) Sinking Fund; and

(a) Within the Sinking Fund, the Reserve Fund.

(2) Supplemental Sinking Fund;

(a) Within the Supplemental Sinking Fund, the Supplemental Reserve 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.

(1) The Issuer shall first, each month, transfer from the Revenue Fund and deposit in the Operation and Maintenance Fund an amount sufficient to pay current Operating Expenses of the System.

(2) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Local Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Local Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the

period to lapse between the date of such initial deposit in the Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Local Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Local Bonds on the next ensuing principal payment date.

(4) In the event, and only in the event of the issuance of Additional Local Bonds, the Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Reserve Account, an amount equal to 1/120 of the Reserve Requirement; provided, that no further payments shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Reserve Requirement.

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

(5) Any withdrawals from the Reserve Account which result in a reduction in the balance of the Reserve Account to below the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Fund for payment of debt service on the Local Bonds have been made.

(6) The Issuer shall not be required to make any further payments into said Sinking Fund or into the Reserve Account in said Sinking Fund when the aggregate amount of funds in both said Sinking Fund and said Reserve Account are at least equal to the aggregate principal amount of Local Bonds issued pursuant to this Bond Legislation then Outstanding, plus the amount of interest due or thereafter to become due on said Local Bonds then Outstanding.

As and when additional Local Bonds ranking on a parity with the Local Bonds are issued, provision shall be made for additional payments into said Sinking Fund sufficient to pay the interest on such additional parity Local Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in said Sinking Fund in an amount equal to the maximum provided and required to be paid into the Sinking Fund in any Fiscal Year for account of all the Local Bonds, including such additional Local Bonds which by their terms are payable from said Sinking Fund.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Fund created hereunder, and all amounts required for said Sinking Fund shall be remitted to the Commission from the Revenue Fund by the Issuer at the time provided herein.

The payments into the Sinking Fund shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Sinking Fund shall be invested and reinvested by the Commission in accordance with Section 7.01 hereof.

The Sinking Fund, including the Reserve Account therein, shall be used solely and only for, and is hereby pledged for, the purpose of servicing the Local Bonds and any additional Local Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

(7) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month of September, 1987, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Reserve Account in the Sinking Fund. 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 VII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiency in the 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 by Subsection 4.03(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(8) Beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by depositing in the Supplemental Sinking Fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds.

(9) If the Supplemental Reserve Account was not funded concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount equal to one-twelfth (1/12) of one-tenth (1/10) of the amount necessary to fund the Supplemental Reserve Account at the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement.

(10) Any interest earned on the Sinking Fund, if not otherwise directed, shall be deposited to the Revenue Fund at the end of each calendar month.

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 said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Operation and Maintenance Fund, the Sinking Fund, including the Reserve Account therein, the Renewal and Replacement Fund as well as the Supplemental Sinking Fund and Supplemental Reserve Fund, during the following month, such excess shall be considered as surplus revenues and used for any lawful purpose of the System including payment of debt service on other obligations junior, subordinate and inferior to the Local Bonds.

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

D. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund 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 surety 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.

F. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

ARTICLE V

BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 5.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. After first being credited to the Bond Construction Trust Fund, into the Reserve Fund, the sum of $459,654.75 and into the Supplemental Reserve Fund, the sum of $33,741.13.

B. $20,000.00, the amount necessary to pay the costs of issuance of the Bonds shall be deposited with the Depository Bank in a special account, which shall be maintained within the Bond Construction Trust Fund, hereby designated the "Elk-Pinch Public Service District Sewer Revenue Bonds Costs of Issuance Fund" (the "Costs of Issuance Account"), and used to pay all costs of issuance of the Bonds.

C. After first being credited to the Bond Construction Trust Fund, $937,125.00, the amount necessary to pay when due the respective principal of and interest due and to become due on the Refunding Notes on the maturity date thereof shall be deposited with the Depository Bank, as trustee and as otherwise provided in Section 12.01 of the

Resolution adopted by the Board on August 18, 1981. These funds are deposited irrevocably in trust and shall not be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the respective principal of and interest on said Refunding Notes. Any moneys remaining after said principal of and interest on said Refunding Notes has been paid in full shall be deposited in the Bond Construction Trust Fund.

D. After first being credited to the Bond Construction Trust Fund, the sum of $4,464,500.00, and interest accrued and unpaid to date, being the amount necessary to discharge and pay the Series 1984A Notes shall be deposited in the Series A Notes Debt Service Fund held by the Depository Bank as trustee, from which it shall be transferred to the Authority. Any moneys remaining after said principal and interest on said Series 1984A Notes have been paid in full shall be deposited in the Bond Construction Trust Fund.

E. The remaining moneys derived from the sale of the Bonds shall be deposited by the Issuer in the Bond Construction Trust Fund. Any moneys may be drawn out, used and applied by the Issuer for the payment of any costs of construction and acquisition of the Project, and purposes incidental thereto. If for any reason such proceeds, or any part thereof, are not necessary for, or are not applied to,

such purposes, then such unapplied proceeds shall be deposited by the Issuer in the Sinking Fund and shall be used only as provided therefor. All such proceeds shall be and constitute a trust fund for such purposes, and there is hereby created a lien upon such monies until so applied in favor of the Holders of such Bonds.

F. The Issuer shall disburse moneys from the Bond Construction Trust Fund to pay costs of issuance as provided in "B" above and deposits as provided in "A", "C" and "D" above. The Issuer shall disburse no other moneys from the Bond Construction Trust Fund except to pay Costs of the Project as provided below. Disbursements from the Construction Trust Fund shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Independent Certified Public Accountant, stating.

(a) The account from which such disbursement is requested;

(b) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(c) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(d) That each of such costs has been otherwise properly incurred;

(e) That payment for each of the items proposed is then due and owing; and

(f) That each of such costs is a Cost of the Project.

Section 5.02. Rebate of Excess Investment Earnings to the United States.

A. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Bond Legislation, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Bond Legislation, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the

Earnings Fund. Annually, on the last day of each Bond Year or on the preceding business day in the event that such last day is not a business day, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the Issuer on such date shall be credited by an amount equal to the amount so transferred.

B. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. Within 30 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 30 days following the last day of each Bond Year and within 30 days following the date of the retirement of the Bond, the Issuer shall calculate, and shall provide written

notice to the Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the Issuer in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Bonds shall be determined based on the actual Yield of the Bonds during the period between the Closing Date of the Bonds and the date the computation is made (With adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Bond, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily

to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 years's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond year is less than $100,000.

D. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any

lawful purpose of the System. The Issuer shall remit payments to the United States 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 such 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 by this Subsection D, 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 therefor.

E. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. The Issuer shall keep, and retain for a period of 6 years following the retirement of the Bonds, records of the determinations made pursuant to this Section 5.02.

G. In order to provide for the administration of this Section 5.02, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. Notwithstanding the foregoing, the Issuer further covenants 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.

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 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 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 Bonds or the interest thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation.

Section 6.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Local 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, to the extent necessary to make the payments required under Section 4.03 hereof, or as otherwise provided. The Net

Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Fund, including the Reserve Account therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided therein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 6.04. Initial Schedule of Rates and Charges; Rules. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the Order of the Public Service Commission of West Virginia entered July 8, 1987 (Case No. 87-008-5-42T.)

Section 6.05. Sale of the System. 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 Bonds (including Supplemental Bonds) Outstanding or to effectively defease the Bond Legislation in accordance with Section 9.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the Sinking Fund and the Supplemental Sinking Fund, and, 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 Bonds about to mature. Any balance remaining after the payment of all the 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, 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 disposition of such properties, shall be in excess of $10,000 but not in excess of $50,000, 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 $50,000, shall be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value so long as the holders of said Bonds agree thereto. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds 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 $50,000 and insufficient to pay all the 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 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 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. So long as any of the 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 Bonds; provided, however, that additional Bonds on a parity with the Supplemental Bonds, or, if there are no Supplemental Bonds then outstanding on a parity with the Local Bonds may be issued as provided for in Section 6.07 hereof. All obligations issued by the Issuer after the issuance of the 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 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Account 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 Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 6.07. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of Bonds issued pursuant hereto, 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, based upon the necessary investigation and certification by the Consulting Engineers, 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 of 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 enacted by the Issuer, the period for appeal of which has expired (without successful appeal) prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, 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 Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified

Public Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the period for appeal of which has expired (without successful appeal) prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by 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. All the Bonds, 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 over any other. 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.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued the lien of which on the revenues of the System is subject to the prior and superior lien of the 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 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 with respect to the 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.

B. Notwithstanding the foregoing, Parity Bonds may be issued solely for the purpose of completing the Project as described in the Application defined in the Loan Agreement, without regard to the restrictions set forth in Section 6.06 or

this Section 6.07, if there is first obtained by the Issuer the written consent of the Authority.

Section 6.08. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of 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 Public Service Commission of West Virginia. 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 Consulting Engineers and the Authority, or any other 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 and Net 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, as the case may be, and the status of all said funds and accounts.

(c) The amount of any Bonds or other obligations outstanding.

Section 6.09. Rates. 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 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 to provide funds which, along with other revenues of the System, (i) will pay all Operating Expenses and (ii) leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for payment of debt service on the Bonds and all other obligations secured by or payable from such revenues prior to or on a parity with the Bonds or, if the Reserve Account for the Bonds is funded (whether by the Bond proceeds, monthly deposits or otherwise) at least at the Reserve Requirement and any reserve account for any such prior bonds or parity obligations is funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any Fiscal Year for payment of debt service on the Bonds and any such prior or parity obligations.

Section 6.10. Operating Budget and Audit. 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 expenditures for operation and maintenance of the System during the succeeding 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 mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and 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 and resolutions be furnished him or her and shall make available such budgets 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.

In addition, the Issuer shall annually cause the books, records and accounts of the System to be audited by an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority or any other original purchaser of the Bonds and shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement and Supplemental Loan Agreement. The Issuer shall mail such report, on request, or a

summary thereof, to any Holder or Holders of the Bonds, and shall make such report available generally.

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 Services Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid and to the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, all delinquent

rates, rentals and other 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 and facilities of the System and any services and facilities of the water system, if then owned by the Issuer, to all delinquent users of services and facilities of the System and will not restore such services of either system until all billing for charges for the services and facilities of the System, plus reasonable interest penalty charges for the restoration of service, has been fully paid.

Section 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 and Construction Bonds.

A. The Issuer hereby covenants and agrees that so long as any of the 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 carried with respect to works and properties similar to the System, with such beneficiaries as are required by Section 2.8 of the Loan Agreement. Such insurance shall initially cover the following risks and be in the following amounts:

(a) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the 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 during construction of the Project in the full insurable value thereof.

(b) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $100,000 per occurrence from claims for damages to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(c) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contact 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.

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project.

C. The Issuer will obtain, and maintain, so long as the Bonds are outstanding, flood insurance, business interruption insurance if available at a reasonable cost.

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. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

ARTICLE VII

INVESTMENT OF FUNDS; NO ARBITRAGE

Section 7.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation 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 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. If the investment is held by the Commission it shall be valued at par. 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 fro its own negligence or willful misconduct.

Section 7.02. Restrictions as to Arbitrage Bonds. The Issuer hereby covenants, and hereby so instructs the Depository Bank and the Bond Commission that they 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 to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 148 of the Internal Revenue Code, and an Authorized Officer shall deliver his certificate, based upon this covenant, with regard thereto to the purchaser of the Original Bonds.

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 Bonds:

(a) Payment of the principal of any of the Bonds shall not be made as and when the same shall become due and payable; or

(b) Payment of any installment of interest on any of the Bonds shall not be made as and when the same shall become due and payable; or

(c) An order or decree shall be entered, with the consent or acquiescence of the Issuer, appointing a receiver, or receivers, of the Issuer, or of any of the revenues to be derived from the System, or any proceedings shall be instituted, with the consent or acquiescence of the Issuer, for the purpose of effecting any composition between the Issuer and any of its creditors pursuant to any Federal or State statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the Issuer, shall not be vacated or discharged or stayed on appeal within sixty days after the entry thereof, or if such proceedings, having been instituted without the consent or acquiescence of the

Issuer, shall not be withdrawn or any orders entered shall not be withdrawn, vacated, discharged or stayed on appeal, within sixty days after the institution of such proceedings or the entry of such orders; or

(d) The issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements or provisions contained in the Bonds, or in the Resolution, other than (a) and (b) above, and such default shall continue for thirty days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the Issuer by a Bondholder, the Commission or the Depository Bank.

Section 8.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners 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

Registered Owners 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 Registered Owners.

Section 8.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds any Registered Owner 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 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 revenues 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 do.

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 Registered Owner 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 Registered Owners 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 Registered Owners 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. The rights of the holders of Supplemental Bonds shall at all times be and remain second and subordinate to the holders of the Local Bonds.

ARTICLE IX

DEFEASANCE

Section 9.01. Defeasance. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Bonds, the principal of and interest 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 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due the repective principal of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been

deposited with the Commission either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Commission at the same time, shall be sufficient, to pay when due the respective principal of and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the respective principal of and interest to become due on said Bonds on and prior to such maturity dates thereof, and interest earned from such reinvestements shall be paid over to the Issuer as received by the Commission free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment or Modification of Bond Legislation. 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 Registered Owners of the bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the 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 pledged therefor without the consent of the Registered Owner 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 Registered Owners of the 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 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. Amendments. The Issuer hereby covenants to make any amendment or supplements to this Resolution necessary to render the interest on the Bonds exempt from federal income taxation.

Section 10.06. Conflicting Resolution and 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.

Section 10.07. 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 enactment 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 Board of the Issuer 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 10.08. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 17th day of August, 1987.

James W Piercy
Chairman

Robert J Cadabaugh
Member

Robert III
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Elk-Pinch Public Service District on this 18th day of August, 1987.

(SEAL)

Secretary

ELK-PINCH PUBLIC SERVICE DISTRICT

Sewerage System Revenue Bonds, Series 1987

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATE, MATURITY, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE SEWERAGE SYSTEM REVENUE BONDS, SERIES 1987, OF THE ELK-PINCH PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Board (the "Governing Body") of ELK-PINCH PUBLIC SERVICE DISTRICT (the "Issuer"), has duly and officially adopted a Resolution effective August 18, 1987 (the "Bond Resolution"), entitled:

RESOLUTION RECONFIRMING AUTHORIZATION OF THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWAGE FACILITIES OF ELK-PINCH PUBLIC SERVICE DISTRICT AND AUTHORIZING THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $6,509,563.00 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS, A PORTION OF THE PROCEEDS OF WHICH, TOGETHER WITH OTHER FUNDS AND MONIES OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, SHALL BE USED TO DISCHARGE THE 1984 NOTES, AND; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Resolution provides for the issuance of Sewer System Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount of not to exceed $6,509,563.00, and has authorized the execution and delivery of a Loan Agreement

(the "Loan Agreement") and a Supplemental Loan Agreement ("Supplemental Loan Agreement") each dated as of July 14, 1987, both sometimes collectively referred to as the "Agreements" by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with West Virginia Code, Chapter 16, Article 13A (the "Act"); and in the Bond Resolution, it is provided that the maturity date, interest rates, interest and principal payment dates, sale price and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement;

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement and the Supplemental Loan Agreement previously entered into by the Issuer be ratified, that the price, the maturity date, the redemption provisions, the interest rates and the interest and principal payment dates 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 ELK-PINCH PUBLIC SERVICE DISTRICT:

Section 1. (a) Pursuant to the Bond Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Sewerage System Revenue Bonds, Series 1987, of the Issuer, originally represented by two Bonds, numbered R-1 and SR-1, in the aggregate principal amount of $6,509,563.00. Each Bond shall be dated August 20, 1987, and shall finally mature October 1, 2026. Number R-1 shall be in the principal amount of $5,227,400.00, shall bear interest at the rate of 8.38% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1987, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium and otherwise as provided in the Loan Agreement, as long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal commencing on October 1, 1989 and each of the years and in the amounts as set forth in "Schedule X," attached thereto and incorporated therein by reference. Number SR-1 (the "Supplemental Bonds") shall be dated August 20, 1987, shall finally mature October 1, 2026, shall be in the principal amount of $1,282,163.00, shall be non-interest bearing, shall be subject to redemption upon the written consent of the Authority, and otherwise as provided in the Loan Agreement, as long as the Authority shall be the registered owner

of the Supplemental Bonds, and shall be payable in installments of principal commencing on October 1, 1989 and each of the years and in the amounts as set forth in "Schedule X" attached thereto and incorporated therein by reference.

Section 2. All other provisions relating to the Bonds shall be, and the Bond numbered R-1 shall be in substantially the form provided in, the Bond Resolution. Bond Numbered SR-1 shall be substantially the form attached hereto as Exhibit "A".

Section 3. The Issuer does hereby approve and accept the Agreements dated July 14, 1987, between the Authority and the Issuer, a copy of each of which is incorporated herein by reference, and the execution and delivery by the Chairman of the Agreements, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed. The price of the Bonds shall be $6,509,563.00 (100% of par value).

Section 4. The Issuer does hereby appoint and designate the West Virginia Municipal Bond Commission (the "Commission") or any successor to the functions thereof, as Paying Agent for the Bonds and does hereby appoint and designate United National Bank, Charleston, West Virginia, as Registrar (the "Registrar") and does approve and accept the Registrar's Agreement dated as of August 20, 1987, by and between the Issuer and the Registrar, in substantially the form attached hereto, and the execution and delivery by the Chairman of the Registrar's

Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint the United National Bank, Charleston, West Virginia, as Depository Bank under the Bond Resolution.

Section 6. The Supplemental Bonds are payable from and secured by a pledge of and a lien on the net revenues of the System which lien is junior, subordinate and inferior to that of the Local Bonds.

Section 7. All the general covenants made in the Resolution apply to the Supplemental Bonds as well as the Local Bonds.

Section 8. The lien of the Holder of the Local Bonds on the Bond Construction Trust Fund is superior to the lien of the Holder of the Supplemental Bonds.

Section 9. In addition to the covenants contained in the Bond Resolution the Issuer further covenants that the schedule of rates or charges for the services of the System shall be sufficient to provide funds which, along with other revenues of the System, will pay all Operating Expenses and leave a balance each fiscal year equal to at least one hundred fifteen percent (115%) of the maximum amount required in any fiscal year for debt service on the Local Bonds and the Supplemental Bonds and all other obligations secured by or payable from the revenues

of the System prior to or on a parity with the Local Bonds and on a parity with the Supplemental Bonds or, if the reserve accounts established for the payment of debt service on the Local Bonds (the "Reserve Account") and for the payment of debt service on the Supplemental Bonds (the "Supplemental Reserve Account") are funded (whether by Local Bond proceeds with respect to the Local Bonds, monthly deposits or otherwise), respectively, at an amount at least equal to the maximum amount of principal and interest which will come due on the Local Bonds in any fiscal year (the "Reserve Requirement") or on the Supplemental Bonds in any fiscal year (the "Supplemental Reserve Requirement"), as the case may be, and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, equal to at least one hundred ten percent (110%) of the maximum amount required in any fiscal year for debt service on the Local Bonds and the Supplemental Bonds and any such prior or parity obligations.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver the Loan Agreement, the Supplemental Loan Agreement, and such other documents and certificates required or desirable in connection with the Local and Supplemental Bonds hereby and by the Bond Resolution approved and provided for, to the end that the Bonds may be delivered on or about August 20, 1987, to the Authority pursuant to the Loan Agreements.

Section 11. The financing of the Project by the Bond is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 13th day of August, 1987.

ELK-PINCH PUBLIC SERVICE DISTRICT

James W Piercy
Chairman

ATTEST:

Robert F Scarbaugh
Secretary

EXHIBIT A

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
ELK-PINCH PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BOND, SERIES 1987

No. SR-1 $1,282,163.00

KNOW ALL MEN BY THESE PRESENTS: That the ELK-PINCH PUBLIC SERVICE DISTRICT, a public corporation of the State of West Virginia in Kanawha County (the "Issuer") hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to West Virginia Water Development Authority (the "Authority") or registered assigns the sum of One Million Two Hundred Eighty-Two Thousand One Hundred Sixty-Three Dollars ($1,282,163.00), in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit X hereto and incorporated herein by reference without interest.

The principal of this Bond (the "Supplemental Bond") is payable in any coin or currency which, on the respective dates of payment of principal, 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 Municipal Bond Commission, Charleston, West Virginia, as Paying Agent (the "Paying Agent"). So long as the Authority is the registered owner, this Supplemental Bond shall not be subject to redemption prior to its stated date of maturity without the written consent of the

Authority and otherwise as provided for in the Supplemental Loan Agreement by and between the Authority and the Issuer dated July 14, 1987.

This Supplemental Bond is issued together with other funds, (i) to complete the financing of the cost of acquisition and construction of public sewerage facilities (the "Project"); (ii) to pay additional costs of acquisition and construction of the Project, if necessary; (iii) to discharge and pay all outstanding 1984 Notes described in the Bond Legislation; (iv) to fund the Supplemental Reserve Fund, and (v) to pay certain costs of issuance hereof and related costs. This Supplemental 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 the 18th day of August, 1987, and a Supplemental Resolution duly adopted by the Issuer on the 18th day of August, 1987 (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 security provided for the Supplemental Bonds under the Bond Legislation.

This Supplemental 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, money in the Supplemental Reserve Fund created under the Bond Legislation (the "Supplemental Reserve Fund"), and unexpended proceeds of the Bonds. Said pledge is second and subordinate to the pledge of said Net Revenues and unexpended Bond proceeds securing the payment of the Local 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 Supplemental Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitation, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Supplemental Reserve Fund and unexpended Bond proceeds. 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, along with other revenues of the System, shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each fiscal year equal to at least 115% of the maximum amount required in any fiscal year for debt service on the Local Bonds and the

Supplemental Bonds and all other obligations secured by or payable from such revenues of the System prior to or on a parity with the Local Bonds and on a parity with the Supplemental Bonds or, if the Reserve Fund established for payment of debt service on the Local Bonds (the "Reserve Fund") and for the payment of debt service on the Supplemental Bonds (the "Supplemental Reserve Fund") are funded (whether by Local Bond proceeds with respect to the Local Bonds, monthly deposits or otherwise), respectively, at least at the maximum amount of principal and interest which will become due on the Local Bonds in any fiscal year (the "Reserve Requirement") or on the Supplemental Bonds in any fiscal year (the "Supplemental Reserve Requirement") as the case may be, and any reserve fund for such prior or parity obligations is funded at least at the requirement therefor, equal to at least 110% of the maximum amount required in any fiscal year for debt service on the Local Bonds and the Supplemental Bonds and any such prior or parity obligations. 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.

This Supplemental Bond is transferable, as provided in the Bond Legislation, only upon the books kept for that purpose at the office of United National Bank, Charleston, West Virginia,

as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Supplemental 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 such provisions regarding registration, this Supplemental Bond, under the provisions of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Supplemental Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project, if necessary, described in the Bond Legislation or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Holder 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 Supplemental 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 Supplemental 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 Supplemental 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, THE ELK-PINCH PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary and has caused this Bond to be dated August 20, 1987.

(SEAL)

_____
Chairman

ATTEST:

_____
Secretary

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: _____, _____.

_____

In the presence of:

_____

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above.

UNITED NATIONAL BANK,
as Bond Registrar

By: _____
It Authorized Officer

EXHIBIT X

ELK PINCH PUBLIC SERVICE DISTRICT
ANALYSIS OF 7.00% BORROWING COST FOR LOCAL ISSUER
---------- 1986 SERIES A BONDS ----------

PERIOD ENDING 10/1	ZERO COUPON BONDS
1987	.00
1988	.00
1989	33,741.19
1990	33,741.13
1991	33,741.13
1992	33,741.13
1993	33,741.13
1994	33,741.13
1995	33,741.13
1996	33,741.13
1997	33,741.13
1998	33,741.13
1999	33,741.13
2000	33,741.13
2001	33,741.13
2002	33,741.13
2003	33,741.13
2004	33,741.13
2005	33,741.13
2006	33,741.13
2007	33,741.13
2008	33,741.13
2009	33,741.13
2010	33,741.13
2011	33,741.13
2012	33,741.13
2013	33,741.13
2014	33,741.13
2015	33,741.13
2016	33,741.13
2017	33,741.13
2018	33,741.13
2019	33,741.13
2020	33,741.13
2021	33,741.13
2022	33,741.13
2023	33,741.13
2024	33,741.13
2025	33,741.13
2026	33,741.13
	1,282,163.00

BIG SANDY SEWER PUBLIC SERVICE DISTRICT

SEWER REVENUE BONDS,
SERIES 1990 A AND SERIES 1990 B
and
INTERIM CONSTRUCTION FINANCING

BOND AND NOTES RESOLUTION

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BIG SANDY SEWER PUBLIC SERVICE DISTRICT

RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF BIG SANDY SEWER PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 A, NOT MORE THAN $1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 B, AND NOT MORE THAN $4,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES, OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE, IF APPLICABLE, SECURING THE NOTES; APPROVING AND AUTHORIZING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF BIG SANDY SEWER 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. Big Sandy Sewer Public Service District (the "Issuer") is a public service district and political subdivision of the State of West Virginia in Kanawha County of said State.

B. The Issuer does not presently own or operate a public sewerage system or public sewerage facilities, and it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain sewerage facilities of the Issuer, consisting of acquisition and construction of a sanitary sewage collection system, together with all appurtenant facilities (collectively, the "Project"), which constitute properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the Project and any additions or improvements thereto or extensions thereof is herein called the "System") at an estimated cost of $7,599,941, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer. Sewerage from the System will be treated and disposed by Elk-Pinch Public Service District pursuant to an agreement between Elk-Pinch Public Service District and the Issuer, which agreement has been approved by the Public Service Commission of West Virginia.

C. The estimated revenues to be derived in each year after completion of the Project 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 on the Bonds and all Sinking Funds, Reserve Accounts and other payments provided for herein, all as such terms are hereinafter defined.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than $2,500,000 in two series, being the Series 1990 A Bonds in the aggregate principal amount of not more than $1,500,000, and the Series 1990 B Bonds in the aggregate principal amount of not more than $1,000,000 (collectively, the "Original Bonds"), and (at the option of the Issuer) to issue its sewerage system bond anticipation notes prior to issuance of the Original Bonds and contemporaneously therewith, or as soon as practicable thereafter, to issue its sewerage system grant anticipation notes and/or a note or notes evidencing a line of credit, or any combination of the foregoing (collectively, the "Notes"), in the aggregate principal amount of not more than $4,000,000 to temporarily finance costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes during the term thereof and upon the Bonds prior to and during construction or acquisition and for a period not exceeding 6 months after completion

of acquisition and construction of the Project; amounts which may be deposited in the Reserve Accounts; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees of the Authority (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and/or the Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any fees for the providing of a letter of credit, as hereinafter defined, and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the Notes or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Original Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution.

G. There are no outstanding obligations of the Issuer which will rank prior to or on a parity with the Bonds as to lien, pledge and source of and security for payment. The Series 1990 B Bonds shall be junior and subordinate to the Series 1990 A Bonds with respect to lien, pledge and source of and security for payment and in all other respects. The Grant Anticipation Notes, if issued, will not be payable from the Net Revenues, but shall be payable from Grant Receipts, Surplus Revenues, certain proceeds of such Grant Anticipation Notes and proceeds of a letter of credit, if any, all as shall be set forth in the Indenture and/or the Supplemental Resolution authorizing the Notes or such Grant Anticipation Notes. The Bond Anticipation Notes, if issued, will be payable from the proceeds of the Bonds, certain proceeds of such Bond Anticipation Notes and the Net Revenues, if necessary, all as shall be set forth in the Indenture and/or the Supplemental Resolution authorizing the Notes or such Bond Anticipation Notes.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the obtaining of a Certificate of Public Convenience and Necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Bonds or any of the Notes or such final order will not be subject to appeal or rehearing.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds and the Notes 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 such Noteholders, 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 and Notes, respectively, 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 and between any one Note of a series and any other Note 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 Chapter 16, Article 13A of the West Virginia Code of 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairman of the Governing Body of the Issuer or any temporary Chairman duly selected by the Governing Body.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

"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 and Notes Resolution" or "Local Act" means this Bond and Notes Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

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

"Bond Year" means each one-year period (or shorter period from the date of issue of the Original Bonds) that ends at the close of business on the day in the calendar year that is selected by the Issuer, which must be the last day of a compounding interval used in computing the yield on the issue under the Code, and shall be October 1 unless otherwise required under the Code.

"Bonds" means the Original Bonds and any bonds on a parity therewith authorized to be issued hereunder.

"Chairman" means the Chairman of the Governing Body of the Issuer.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

"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.

"Consulting Engineers" means Dunn Engineers, Inc., Charleston, West Virginia, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the cost of acquisition and construction of the Project.

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

"EPA" means the United States Environmental Protection Agency and any successor to the functions of the EPA.

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor:

"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.

"Grant" means the EPA Grant.

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of any Grant after the date of issuance of any grant anticipation notes; provided that, "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

"Grinder Pump Replacement Reserve Fund" means the Grinder Pump Replacement Reserve Fund established by Section 5.01 hereof.

"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 Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

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

"Indenture" or "Trust Indenture" means the Trust Indenture which may, at the Issuer's option, be entered into between the Issuer and the Trustee relating to any or all of the Notes and all supplements or amendments thereto.

"Independent Public Accountants" shall mean any public accountant or firm of 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" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or any 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 Big Sandy Sewer Public Service District, in Kanawha County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, to be entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Original Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Reserve Accounts. 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 Original 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.

"New Connections Reserve Fund" means the New Connections Reserve Fund established by Section 5.01 hereof.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or any other proceeds of the Original Bonds and is not acquired in order to carry out the governmental purpose of the Original Bonds.

"Noteholder," "Holder of the Notes" or any similar term means the person, whenever used herein with respect to an outstanding Note or Notes, in whose name such Note is registered.

"Notes" means, collectively, the not more than $4,000,000 in aggregate principal amount of sewerage system bond anticipation notes, grant anticipation notes and/or notes evidencing a line of credit, or any combination of the foregoing, and originally authorized hereby, which may be issued by the Issuer, the terms of which shall be set forth in one or more Supplemental Resolutions, and unless the context clearly indicates otherwise, the terms "Notes" includes any refunding Notes of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture and/or the Supplemental Resolution pertaining to such Notes and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Bond Registrar, Paying Agent and the Trustee (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 or the Notes, 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.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than $1,500,000 in aggregate principal amount of Series 1990 A Bonds and the not more than $1,000,000 in aggregate principal amount of Series 1990 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event Notes are issued, the original purchaser of such Notes, as shall be named in the Supplemental Resolution, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means any other grant other than the EPA Grant hereafter received by the Issuer to aid in financing any Costs.

"Outstanding," when used with reference to Bonds or Notes and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, or all Notes theretofore and thereupon being authenticated and delivered, as applicable, except (i) any Bond or Note cancelled by the Bond Registrar or Notes Registrar, at or prior to said date; (ii) any Bond or Note 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 or under the Indenture, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond or Note deemed to have been paid as provided in Article X hereof or as provided in the Indenture, as applicable; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or Noteholders, any Bonds or Notes registered to the Issuer.

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

"Paying Agent" means the bank or banks or other entity designated as such for the Bonds and/or the Notes in the Indenture or in the Supplemental Resolution or such entity or authority as may be designated by the Issuer.

"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 or 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.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain sewerage facilities of the Issuer, consisting generally of a sanitary sewage collection system, together with all appurtenant facilities.

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

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

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any

other federal agency and backed by the full faith and credit of the United States of America;

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

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

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

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on

which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

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

"Registrar" means, as appropriate, either the Bond Registrar or the Notes Registrar, or both.

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

"Revenue Fund" means the Revenue Fund established by Section 5.01 hereof.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 1990 A Bonds" or "Series A Bonds" means the not more than $1,500,00 in aggregate principal amount of Sewer Revenue Bonds, Series 1990 A, of the Issuer.

"Series 1990 A Bonds Reserve Account" means the Series 1990 A Bonds Reserve Account established in the Series 1990 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1990 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1990 A Bonds in the then current or any succeeding year.

"Series 1990 A Bonds Sinking Fund" means the Series 1990 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1990 B Bonds" or "Series B Bonds" means the not more than $1,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1990 B, of the Issuer.

"Series 1990 B Bonds Reserve Account" means the Series 1990 B Bonds Reserve Account established in the Series 1990 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1990 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become

due on the Series 1990 B Bonds in the then current or any succeeding year.

"Series 1990 B Bonds Sinking Fund" means the Series 1990 B Bonds Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of any or all of the Notes or the sale of the Original Bonds, as the case may be; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Notes or the Original Bonds, as the case may be, 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 Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Reserve Accounts, the Grinder Pump Replacement Reserve Fund and the New Connections Reserve Fund, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the complete properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for said system from any sources whatsoever.

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

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

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.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of $7,599,941, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1990 A Bonds, funding a reserve account for each series of Original Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Original Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than $2,500,000. Said Bonds shall be issued in two series, to be designated respectively, "Sewer Revenue Bonds, Series 1990 A," in the aggregate principal amount of not more than $1,500,000, and "Sewer Revenue Bonds, Series 1990 B," in the aggregate principal amount of not more than $1,000,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Notes, if any. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually 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. The 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 Bonds 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 Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series 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 the Authority 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. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The 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 Bonds shall cease to be such officer of the Issuer before the 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 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such 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 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 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 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 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 Bonds shall be incontestable in the hands of a bona fide holder for value.

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

The registered 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 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of 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 Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of 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 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 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 and amounts, if any, in the respective Reserve Accounts. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Positions. The payment of the debt service of all the Series 1990 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. The payment of the debt service of all the Series 1990 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but junior and subordinate to the lien on such Net Revenues in favor of the Holders of the Series 1990 A Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein, the Renewal and Replacement Fund, the Grinder Pump Replacement Reserve Fund and the New Connections Reserve Fund hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Bonds shall be in substantially the following forms, 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 1990 A Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
BIG SANDY SEWER PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND,
SERIES 1990 A

No. AR-____ $_____

KNOW ALL MEN BY THESE PRESENTS: That BIG SANDY SEWER PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Kanawha 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 West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), in installments on October 1 of each year, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning _____ 1, 19__. 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 Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Bond Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the registered owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated _____, 19__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain new sewerage facilities of the Issuer (the "Project"); (ii) [to pay interest on the Bonds of this Series (the "Bonds") during the construction of the Project and for not more than 6 months thereafter; (iii) to fund a reserve account for the Bonds; and (iv)] to pay certain costs of issuance hereof and related costs. The Project and any additions, extensions or improvements thereto is 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"), and a Resolution duly adopted by the Issuer on _____, 19_____, and a Supplemental Resolution duly adopted by the Issuer on _____, 19__ (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 security provided for the Bonds under the Bond Legislation.

This Bond is issued concurrently with the Sewer Revenue Bonds, Series 1990 B, of the Issuer (the "Series 1990 B Bonds"), issued in the aggregate principal amount of $_____, which Series 1990 B Bonds are junior and subordinate with respect to lien, pledge and source of and security for payment to the 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, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1990 A Bonds Reserve Account") and unexpended proceeds of the Bonds and the Series 1990 B 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 a corporate 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 hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1990 A Bonds Reserve Account and unexpended proceeds of the Bonds and the Series 1990 B 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 on the Bonds, the Series 1990 B Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds or the Series 1990 B Bonds, provided however, that so long as there exists in the Series 1990 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1990 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1990 B 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 the Bond 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 Bond 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, shall be applied solely to the payment of the Costs of the Project 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 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 and interest on 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, BIG SANDY SEWER 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 _____, 19__.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1990 A 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: _____

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Bond Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(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: _____, _____.

_____

In the presence of:

_____

[Form of Series 1990 B Bond]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
BIG SANDY SEWER PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND,
SERIES 1990 B

No. BR-__ $_____

KNOW ALL MEN BY THESE PRESENTS: That BIG SANDY SEWER PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Kanawha 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 West Virginia Water Development Authority (the "Authority") or registered assigns the sum of _____ DOLLARS ($_____), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" 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 Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated _____, 19__.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain new sewerage facilities of the Issuer (the "Project"); (ii) [to fund a reserve account for the Bonds of this Series (the "Bonds"); and (iii)] to pay certain costs of issuance hereof and related costs. The Project and any additions, extensions or improvements thereto is 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"), and a Resolution duly adopted by the Issuer on _____, 19____, and a Supplemental Resolution duly

adopted by the Issuer on _____, 19____ (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 security provided for the Bonds under the Bond Legislation.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT TO THE SEWER REVENUE BONDS, SERIES 1990 A, OF THE ISSUER ISSUED CONCURRENTLY HEREWITH IN THE AGGREGATE PRINCIPAL AMOUNT OF $_____ AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1990 A 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 after there has first been paid from said Net Revenues all payments then due and owing on account of the Series 1990 A Bonds, all moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1990 B 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 a corporate 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, except from said special fund provided from the Net Revenues, the moneys in the Series 1990 B Bonds Reserve Account and unexpended Bond proceeds. 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, the Series 1990 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity therewith, provided however, that so long as there exists in the Series 1990 B Bonds Reserve Account and the reserve account established for the Series 1990 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds and the Series 1990 A Bonds in the then current or any succeeding year, and any reserve account for any such prior or parity obligations is funded at least at 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 One Valley Bank, National Association, Charleston, West Virginia, as bond registrar (the "Bond 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 Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as 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, shall be applied solely to the payment of the Costs of the Project 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 owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1990 A Bonds.

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, BIG SANDY SEWER 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 _____, 19__.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1990 B 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: _____

ONE VALLEY BANK, NATIONAL ASSOCIATION,
as Bond Registrar

By _____
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(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: _____, _____.

_____

In the presence of:

_____

Section 3.10. Sale of Original Bonds; Approval and Ratification of Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairman is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Secretary is directed to affix the seal of the Issuer attest the same, and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.11. "Amended Schedule A" Filing; Tender of Series 1990 B Bonds. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor. In the event such schedule reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess, the Authority may tender the Series 1990 B Bonds to the Issuer for payment in an amount equal to such excess. Notwithstanding the foregoing, if the Issuer has Notes outstanding upon completion of acquisition and construction of the Project, it will advise the Authority of such fact and submit a second schedule to the Authority upon payment of such Notes, and the Authority will not tender its Series 1990 B Bonds for payment until the outstanding Notes have been paid.

ARTICLE IV

INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts or issuance of the Bonds, the Issuer may issue and sell its Notes in an aggregate principal amount not to exceed $4,000,000. The Notes may be in the form of bond anticipation notes, grant anticipation notes and/or as evidence of a line of credit from a commercial bank or other lender, or any combination of the foregoing, at the discretion of the Issuer, and as shall be set forth in one or more resolutions supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture and/or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued in fully registered form, in the denominations, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or one or more supplemental resolutions, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Bonds or the Net Revenues (if issued in the form of Bond Anticipation Notes) or the Grant Receipts, the Surplus Revenues and letter of credit proceeds (if issued in the form of Grant Anticipation Notes) and from other sources described in the Indenture and/or such supplemental resolution or resolutions. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the Indenture and/or the Supplemental Resolution.

Section 4.04. Letters of Credit. As additional security for any Notes, the Issuer may obtain a letter or letters of credit

from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain certificates, the sum or sums set forth therein but not to exceed $1,000,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter or letters of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Grinder Pump Replacement Reserve Fund;

(4) New Connections Reserve Fund;

(5) Bond Construction Trust Fund; and

(6) Rebate Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with the Commission:

(1) Series 1990 A Bonds Sinking Fund;

(a) Within the Series 1990 A Bonds Sinking Fund, the Series 1990 A Bonds Reserve Account.

(2) Series 1990 B Bonds Sinking Fund;

(a) Within the Series 1990 B Bonds Sinking Fund, the Series 1990 B Bonds Reserve Account.

Section 5.03. 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.

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

(2) Thereafter, from moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1990 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1990 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1990 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1990 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall also, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1990 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1990 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1990 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1990 A Bonds, if not fully funded upon issuance of the Series 1990 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1990 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1990 A 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 1990 A Bonds Reserve Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, 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 may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the reserves established with respect to the Series 1990 A Bonds 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 by Section 5.03(A)(4)] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1990 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1990 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1990 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(7) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1990 B Bonds, if not fully funded upon issuance of the Series 1990 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1990 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1990 B 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 1990 B Bonds Reserve Requirement.

(8) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the System, transfer to the Grinder Pump Replacement Reserve Fund, the sum of $260 and to the New Connections Reserve Fund, the sum of $365. All funds in the Grinder Pump Replacement Fund shall be used solely by the Issuer to pay costs of replacing or repairing grinder pumps and vacuum valves constituting part of the System. All funds in the New Connections Reserve Fund shall be used solely by the Issuer to pay costs of connecting new customers to the System.

Moneys in the Series 1990 A Bonds Sinking Fund and the Series 1990 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1990 A Bonds Reserve Account and the Series 1990 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Fund are insufficient therefor, and for no other purpose, except for transfers to the Rebate Fund permitted hereunder.

Except to the extent transferred to the Rebate Fund at the request of the Issuer, all investment earnings on moneys in the several Sinking Funds and Reserve Accounts shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payments, if any, due on the respective series of Bonds, and then to the next ensuing principal payments due thereon.

Except with respect to transfers to the Rebate Fund permitted hereunder, any withdrawals from the Series 1990 A Bonds Reserve Account which result in a reduction in the balance of the Series 1990 A Bonds Reserve Account to below the Series 1990 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full to the

Series 1990 A Bonds Sinking Fund for payment of debt service on the Series 1990 A Bonds.

Except with respect to transfers to the Rebate Fund permitted hereunder, any withdrawals from the Series 1990 B Bonds Reserve Account which result in a reduction in the balance of the Series 1990 B Bonds Reserve Account to below the Series 1990 B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1990 A Bonds Sinking Fund, the Series 1990 A Bonds Reserve Account, the Renewal and Replacement Fund and the Series 1990 B Bonds Sinking Fund have been made in full.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1990 A Bonds Sinking Fund, or the Series 1990 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the respective maturities thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and

application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

Except with respect to transfers to the Rebate Fund permitted hereunder, the Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

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 said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein and the Renewal and Replacement Fund 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, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund.

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

D. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund, the Renewal and Replacement Fund and the Rebate Fund 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 5.03,

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 Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

ARTICLE VI

BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1990 A Bonds, there shall first be deposited with the Commission in the Series 1990 A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1990 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1990 A Bonds, there shall be deposited with the Commission in the Series 1990 A Bonds Reserve Account, and from the proceeds of the Series 1990 B Bonds, there shall be deposited with the Commission in the Series 1990 B Reserve Account, the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

C. Next, from the proceeds of the Series 1990 A Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

D. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Except with respect to any transfers to the Rebate Fund permitted hereunder, moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Series 1990 A Bonds, and thereafter for the Series 1990 B Bonds. In the event that Notes are issued, the disposition of funds in the Bonds

Construction Trust Fund may be modified from that set forth herein, with the written consent of the Authority.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Original Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1990 A Bonds Reserve Account, and when fully funded to the Series 1990 B

Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon. Notwithstanding the foregoing, if the Authority tenders any of its Series 1990 B Bonds to the Issuer pursuant to the provisions of the Supplemental Loan Agreement, such moneys shall be applied to the purchase of such Series 1990 B Bonds.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. 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 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 Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect Bondholders, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.09 shall not be applied to the Grant Anticipation Notes or any line of credit evidenced by such Grant Anticipation Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds or Notes, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Positions. The payment of the debt service of the Series 1990 A 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 and payment of the debt service of the Series 1990 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Holders of the Series 1990 A Bonds. The Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the 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 are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved and described in the Order of the Public Service Commission of West Virginia entered June 15, 1990 (Case No. 89-373-PSD-CN), and such rates are hereby adopted.

Section 7.05. Sale of the System. 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 Bonds and the Notes, if any, Outstanding, or to effectively defease this Bond Legislation in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, 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 Bonds. Any balance remaining after the payment of all the 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. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution and/or the Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $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 $50,000, 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 $50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds 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 $50,000 and insufficient to pay all 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 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 Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to any or all of the Notes issued under the Indenture and/or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture (if an Indenture is used) and the Bond Legislation; and, so long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from any or all of 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 Bonds; provided, however, that additional Bonds on a parity with the

Series 1990 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the Issuer after the issuance of the Bonds and payable from any or all of 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 1990 A Bonds and the Series 1990 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the 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 Bonds, and the interest thereon, upon any or all of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. A. No Parity Bonds, payable out of any or all of the revenues of the System, shall be issued after the issuance of any 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 1990 B Bonds. No Parity Bonds shall be issued which shall be payable out of any or all of the revenues of the System on a parity with the Series 1990 A Bonds, unless the Series 1990 B Bonds are no longer outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions and improvements to the System or refunding one or more series of Bonds issued pursuant hereto, 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 Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, 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 Consulting Engineers, 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 Consulting Engineers and the said Independent Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent 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.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by 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.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 1990 A Bonds and the Series 1990 B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from 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 1990 A Bonds or the Series 1990 B 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 with respect to the 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.

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 7.08. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds or of a Note or Notes issued pursuant to this Bond Legislation and/or the Indenture or the Trustee 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 Public Service Commission of West Virginia. 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 Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, 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 and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes 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 Public Accountants and shall mail upon request, and make available generally, the report of said Independent Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall submit said report to the Trustee and the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

Section 7.09. Rates. 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 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 all reasonable expenses of operation, repair and maintenance 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 Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Reserve Accounts and reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

Section 7.10. Operating Budget and Audit. 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 and shall submit a copy of such budget to the Authority within 30 days of adoption thereof. 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 mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes,

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

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. 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 7.12. 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 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. 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 or, if the waterworks facilities are not owned by the Issuer, the Issuer will enter into a similar termination agreement with the provider of such water.

Section 7.13. 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 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or any of the Notes 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 Loan 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) WORKER'S 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, to the extent available at reasonable cost to the Issuer.

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

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.15. 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 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

Section 7.17. 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 Original 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 Original Bonds during the term thereof is, under the terms of the Original 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 of 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) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Original 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 Original Bonds during the term thereof is, under the terms of the Original 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 Original 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 Original 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 the portion of the Project to which such Private Business Use is related. All of the foregoing shall be determined in accordance with the Code.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Original 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 Original Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

D. INFORMATION RETURN. The Issuer will timely file all statements, instruments and returns necessary to assure the tax-exempt status of the Original 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 (including, without limitation, those deemed necessary by the Authority) so that the interest on the Original Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions or fail to take any actions (including, without limitation, those deemed necessary by the Authority), the result of which would adversely affect such exclusion.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Holders of the 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 Bonds and shall be for the equal benefit of all Holders of each respective Series of Bonds, provided however, that the statutory mortgage lien in favor of the Holders of the Series 1990 A Bonds shall be senior to the statutory mortgage lien in favor of the Holders of the Series 1990 B Bonds.

ARTICLE VIII

INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation or the Indenture, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Trustee, if any, 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, and the Indenture, if any, the need for such moneys for the purposes set forth herein and in the Indenture, if any, and the specific restrictions and provisions set forth in this Section 8.01 and in the Indenture.

Except as provided in the Indenture, if any, 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 except as otherwise provided herein with respect to the Rebate Fund. 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 Trustee, if any, 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 Trustee, if any, 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 Trustee, if any, and 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 as 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 Bonds are Outstanding and as long thereafter as necessary to assure the

exclusion of interest on the Original Bonds from gross income for federal income tax purposes.

Section 8.02. Arbitrage. The Issuer covenants 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 Original Bonds which would cause the Original 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 Original Bonds) so that the interest on the Original 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.

Section 8.03. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Original Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Original Bonds as may be necessary in order to fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of this Bond Legislation.

The Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Authority, 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, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder or under the Indenture, if any, and used only for payment of rebatable arbitrage to the United States. The Issuer shall 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 such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The

Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be in time to time in effect with such reports and statements as may be prescribed by such 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 therefor. In addition, the Issuer shall cooperate with the Authority in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer. To the extent not so performed by the Authority, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate in order to assure compliance with this Section 8.03. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 8.03 in accordance with the requirements of Section 148(f) of the Code and such Regulations. In the event the Issuer fails to make such rebates as required, the Issuer shall pay 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.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the Issuer qualifies for the small governmental issue exception to rebate, or any other exception thereto, then the Issuer shall submit to the Authority a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Original Bonds subject to rebate. The Issuer shall furnish to the Authority such information with respect to earnings on all moneys constituting "Gross Proceeds" of the Bonds (as such term is defined in the Code) from time to time as the Authority may request. The Issuer shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, 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 Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; 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.

B. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on any 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 Bonds set forth in this Bond Legislation, any supplemental resolution or in the 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, the Bond 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.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note or Bond, as the case may be, 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 Registered Owners 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 Notes or Bonds, as the case may be, (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 Registered Owners of the Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1990 B Bonds shall be subject to those of the Holders of the Series 1990 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond or Bond Anticipation Note or a Bond Anticipation Note evidencing a line of credit may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds or Bond Anticipation Notes or Bond Anticipation Note evidencing such line of credit any Registered Owner 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 revenues 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 do.

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 Registered Owner 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 Registered Owners 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 Registered Owners 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 X

DEFEASANCE

Section 10.01. Defeasance of Series 1990 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1990 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1990 A Bonds only, 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 1990 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Original Bonds from gross income for federal income tax purposes.

Series 1990 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1990 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1990 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1990 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1990 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior

to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.02. Defeasance of Series 1990 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1990 B Bonds, the principal due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1990 B Bonds only, 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 1990 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Original Bonds from gross income for federal income tax purposes.

Series 1990 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date the principal installments of such Series 1990 B Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1990 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of said Series 1990 B Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of said Series 1990 B Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such

reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of any series of Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture and/or the Supplemental Resolution pertaining to such Notes, then with respect to such Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Notes from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. 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 Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes, the Series 1990 A Bonds or the Series 1990 B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes 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 Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder or Noteholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Original Bonds and the Notes, if any, from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds and Notes, 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 11.03. 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, the Indenture, if any, the Bonds or the Notes, if any.

Section 11.04. 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 11.05. 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.

Section 11.06. 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 11.07. Public Notice of Proposed Financing. Prior to making formal application to the Public Service Commission of West Virginia for a Certificate of Public Convenience and Necessity and adoption of this Resolution, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation in each municipality in Big Sandy Sewer Public Service District and within the boundaries of the District, a Class II legal advertisement stating:

(a) The respective maximum amounts of the Bonds and the Notes to be issued;

(b) The respective maximum interest rates and terms of the Bonds and the Notes originally authorized hereby;

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

(d) The maximum anticipated rates which will be charged by the Issuer; 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 of West Virginia.

Section 11.08. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 5th day of July, 1990.

Sidney E. Olsen
Chairman, Public Service Board

Bill Rose
Member, Public Service Board

Fred Smith
Member, Public Service Board

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of BIG SANDY SEWER PUBLIC SERVICE DISTRICT on the 5th day of July, 1990.

Dated: July 12, 1990

[SEAL]

Secretary, Public Service Board

07/10/90
BSB.A5
07358/89001

BIG SANDY SEWER PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds,
Series 1990 A and Series 1990 B

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1990 A AND SERIES 1990 B OF BIG SANDY SEWER PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A BOND REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Big Sandy Sewer Public Service District (the "Issuer"), has duly and officially adopted a bond and notes resolution, effective July 5, 1990 (the "Bond and Notes Resolution" or the "Resolution") entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF PUBLIC SEWERAGE FACILITIES OF BIG SANDY SEWER PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $1,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 A, NOT MORE THAN $1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 B, AND NOT MORE THAN $4,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES, OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE

TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond and Notes Resolution provides for the issuance of Sewer Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount not to exceed $2,500,000, to be issued in two series, the Series 1990 A Bonds to be in an aggregate principal amount of not more than $1,500,000 (the "Series 1990 A Bonds") and the Series 1990 B Bonds to be in an aggregate principal amount of not more than $1,000,000 (the "Series 1990 B Bonds"), and has preliminarily authorized the execution and delivery of a loan agreement relating to the Series 1990 A Bonds and a supplemental loan agreement relating to the Series 1990 B Bonds, both to be dated the date of delivery of the Bonds (sometimes collectively referred to herein as the "Loan Agreement"), both by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond and Notes Resolution it is provided that the form of the Loan Agreement and the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

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

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates 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 BIG SANDY SEWER PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Bond and Notes Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued:

(A) The Sewer Revenue Bonds, Series 1990 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of $1,388,390. The Series 1990 A Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2029, shall bear interest at the rate of 8.10% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1990, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1990 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Loan Agreement and incorporated therein by reference.

(B) The Sewer Revenue Bonds, Series 1990 B, of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of $62,701. The Series 1990 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2029, shall be interest free, shall be subject to redemption upon the written consent of the Authority, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1990 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Supplemental Loan Agreement and incorporated therein by reference.

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

Section 3. The Issuer does hereby authorize, approve and accept the Loan Agreement, copies of which are incorporated herein by reference, and the execution and delivery by the Chairman of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, directed and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Bond Registrar for the Bonds and does approve and accept the Bond Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and One Valley Bank, National Association, in substantially the form attached hereto, and the execution and delivery by the Chairman of the Bond Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint One Valley Bank, National Association, Charleston, West Virginia, as Depository Bank under the Bond and Notes Resolution.

Section 7. Series 1990 A Bonds proceeds in the amount of $164,000 shall be deposited in the Series 1990 A Bonds Sinking Fund as capitalized interest

Section 8. Series 1990 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 1990 A Bonds Reserve Account and Series 1990 B Bonds proceeds in the amount of $-0- shall be deposited in the Series 1990 B Bonds Reserve Account.

Section 9. The remaining proceeds of the Bonds shall be deposited in the Bond Construction Trust Fund for payment of Costs of the Project, including repayment of any temporary bank loans or Authority advances made or incurred with respect to the Project and payment of costs of issuance of the Bonds.

Section 10. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, including, but not limited to, all borrowings from West Virginia Water Development Authority.

Section 11. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates required or desirable in connection with the Bonds hereby and by the Bond and Notes Resolution approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about July 12, 1990, including, but not limited to a Water Treatment Agreement by and between the Issuer and Elk-Pinch Public Service District.

Section 12. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds 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 13. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond and Notes Resolution held by the Depository Bank in time accounts secured by a pledge of Government Obligations with the Depository Bank, and therefore the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such time accounts, until further directed by the Issuer. Moneys in the Sinking Funds for the Bonds shall be invested by the Municipal Bond Commission in the West Virginia restricted consolidated fund.

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 1986, as amended, and the temporary and permanent 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 Treasury Regulations promulgated or to be promulgated thereunder.

Section 15. The Issuer elects to have Section 148(f)(4)(B)(iv)(V) of the Code apply to the Bonds and agrees to pay the penalty prescribed under such Section 148(f)(4)(B)(iv)(V) of the Code from lawfully available sources.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 5th day of July, 1990.

BIG SANDY SEWER PUBLIC SERVICE DISTRICT

Sidney E. Allen
Chairman

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of BIG SANDY SEWER PUBLIC SERVICE DISTRICT on the 5th day of July, 1990.

Dated: July 12, 1990.

[SEAL]

Secretary, Public Service Board

07/09/90
BSJ.B4
07358/89001

WEST VIRGINIA
Water Development Authority
Celebrating 34 Years of Service 1974 - 2008

ELK VALLEY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(STATE REVOLVING FUND)

CONSENT TO ISSUANCE OF PARITY BOND

In reliance upon a certificate of the Issuer's certified public accountant, and the opinion of Goodwin & Goodwin, LLP, as Bond Counsel, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the (a) $5,227,400 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987A and (b) $1,388,390 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990A (collectively, the "Parity Prior Bonds"), and the registered owner of the (c) $1,282,163 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1987B and (d) $62,701 Elk Valley Public Service District, Sewerage System Revenue Bond, Series 1990B (collectively, the "Subordinate Prior Bonds"), hereby consents to the issuance of the Sewer Revenue Bond, Series 2008 A (State Revolving Fund) (the "Series 2008 A Bond"), issued in the original aggregate principal amount of $18,061,117, by Elk Valley Public Service District, under the terms of the resolutions authorizing the Series 2008 A Bond, on a parity with respect to liens, pledge and source of and security for payment with the Parity Prior Bonds and senior and prior with respect to liens, pledge and source of and security for payment with the Subordinate Prior Bonds.

WITNESS my signature on this 12th day of August, 2008.

WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY

By: _____
Chris E. Jarrett – Executive Director

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wvwda.org

CLOSING MEMORANDUM

To: **Barbara Meadows**
Rosalie M. Brodersen
Tim Chapman
Samme Gee

From: **Bill Bragg**

Date: **August 12, 2008**

Re: **Elk Valley Public Service District, Sewer Revenue Bond, Series 2008 A (State Revolving Fund) and Sewer Grant Anticipation Note, Series 2008 B (West Virginia WDA Program)**

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1. DISBURSEMENT TO DISTRICT

Payor: West Virginia Department of Environmental Protection
Source: Series 2008 A Bond Proceeds
Amount: $903,056.00
Date: August 12, 2008
Form: Wire Transfer
Payee: Elk Valley Public Service District
Bank: United Bank, Inc.
Routing No.: 051900395
Account No.: 0069429777
Account: Series 2008 Construction Trust Fund

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 07/17/2008

PRODUCER (304)375-4900 FAX (304)375-2162
Bill Bailey Insurance Agency
701 Highland Avenue
P. O. Box 246
Williamstown, WV 26187

INSURED Elk Valley PSD
Attn: Tim Chapman
100 Bream Drive
Elkview, WV 25071

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: American Alternative Insurance	
INSURER B: BrickStreet Insurance Company	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [ ] LOC	SP9153716-00	01/01/2008	01/01/2009	EACH OCCURRENCE	$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
						MED EXP (Any one person)	$ 10,000
						PERSONAL & ADV INJURY	$ 1,000,000
						GENERAL AGGREGATE	$ 3,000,000
						PRODUCTS - COMP/OP AGG	$ 3,000,000
		AUTOMOBILE LIABILITY [ ] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [ ] HIRED AUTOS [ ] NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	$
						BODILY INJURY (Per person)	$
						BODILY INJURY (Per accident)	$
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY [ ] ANY AUTO				AUTO ONLY - EA ACCIDENT	$
						OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
A		EXCESS/UMBRELLA LIABILITY [X] OCCUR [ ] CLAIMS MADE [ ] DEDUCTIBLE [ ] RETENTION $	SX9251289-00	01/01/2008	01/01/2009	EACH OCCURRENCE	$ 1,000,000
						AGGREGATE	$
							$
							$
							$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC10003059-04	11/10/2007	11/20/2008	[X] WC STATU-TORY LIMITS [ ] OTH-ER	
						E.L. EACH ACCIDENT	$
						E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

The certificate holder listed below is named as additional insured in regards to the Waste Water System Improvement Phase I.

CERTIFICATE HOLDER

WV Water Development Authority
180 Association Drive
Charleston, WV 25311

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

©ACORD CORPORATION 1988

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
601 57TH STREET SE
CHARLESTON, WV 25304-2345

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT

NPDES PERMIT NO.: WV0080900
SUBJECT: Sewage

ISSUE DATE: February 28, 2007
EFFECTIVE DATE : March 30, 2007
EXPIRATION DATE: February 27, 2012
SUPERSEDES: Permit No. WV0080900 dated December 20, 2002

LOCATION: ELKVIEW	Kanawha	Elk River
(City)	**(County)**	**(Drainage Basin)**

See the next page for a list of Outlets.

TO WHOM IT MAY CONCERN:

This is to certify that: ELK VALLEY PSD
100 BREAM DR
ELKVIEW, WV 25071

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:
operate and maintain an existing wastewater collection system and an existing 1.39 MGD contact stabilization wastewater treatment plant which are further described as follows.

A wastewater collection system comprised of approximately 12,500 linear feet of four (4) inch diameter gravity sewer line, 5,500 linear feet of six (6) inch diameter gravity sewer line, 255,000 linear feet of eight (8) inch diameter gravity sewer line, 15,400 linear feet of 10 inch diameter gravity sewer line, 13,000 linear feet of 12 inch diameter gravity sewer line, 2,000 linear feet of 14 inch diameter gravity sewer line, 18,400 linear feet of 15 inch diameter gravity sewer line, 1,934 manholes, 90 cleanouts, 5,700 linear feet of three (3) inch diameter vacuum sewer line, 10,400 linear feet of four (4) inch diameter vacuum sewer line, 14,900 linear feet of six (6) inch diameter vacuum sewer line, 4,500 linear feet of eight (8) inch diameter vacuum sewer line, three (3) vacuum stations, 3,500 linear feet of one and one fourth (1 1/4) inch diameter force main, 2,200 linear feet of two and one half (2 1/2) inch diameter force main, 3,300 linear feet of three (3) inch diameter force main, 5,300 linear feet of four (4) inch diameter force main, 12,200 linear feet of six (6) inch diameter force main, 37,200 linear feet of eight (8) inch diameter force main, 1,000 linear feet of 10 inch diameter force main, 1,500 linear feet of 12 inch diameter force main, 60 lift stations, four (4) odor control facilities, and all requisite appurtenances.

A wastewater treatment plant comprised of grit removal facilities, a bar screen, two (2) 0.695 MGD treatment units with each unit having a contact chamber with a volume of 94,900 gallons, a clarifier with a volume of 123,400 gallons and a surface area of 1,257 square feet, a stabilization chamber with a volume of 162,200 gallons, a chlorine contact chamber with a volume of 14,400 gallons and an aerobic digester with a volume of 168,900 gallons, a chlorine contact chamber with a volume of 4,800 gallons, dechlorination facilities, a sludge dewatering belt press, three (3) wedgewater sludge drying beds with a total surface area of 1,500 square feet and all requisite appurtenances.

These facilities are to serve a population equivalent of approximately 14,000 persons in the Elk Valley Public Service, including the Town of Clendenin, and environs, and discharge treated wastewater to the Elk River,

approximately 8.1 miles from its mouth, of the Kanawha River.

This permit is subject to the following terms and conditions :
The information submitted on, and with, Permit Application No. WV0080900, dated the 25th of July 2006, additional information, dated the 5th day of December 2006, additional information, dated the 3rd day of January 2007, and additional information, received the 26th day of February 2007, are all hereby made terms and conditions of this Permit with like effect as if all such Permit Application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, and E, and Appendix A.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

Elk Valley Public Service District
100 Bream Drive, Elkview, WV 25071
Phone: 304-965-1676 Fax: 304-965-7002
Email: timevpsd@suddenlinkmail.com

Fax

Name:	BILL BRAGG
Organization:	GOODWIN & GOODWIN, LLP
Fax:	304-344-9692
Phone:	304-346-7000
From:	TIMOTHY C. CHAPMAN
Date:	7/17/08
Subject:	NPDES PERMIT COVER SHEET
Pages:	3 INCLUDING COVERSHEET

Comments:

RECEIVED
UTILITIES DIVISION
SPECIAL STUDIES SECTION
2004 DEC 30 AM 9:12
PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA

Public Service Commission
of W. VA. Tariff Office
DEC 30 2004
Special Studies Section

P.S.C. W. Va. No. 3
Canceling P.S.C. W. Va. No. 2

ELK VALLEY PUBLIC SERVICE DISTRICT, a public utility

OF

ELKVIEW, KANAWHA COUNTY, WEST VIRGINIA

RATES, RULES AND REGULATIONS FOR FURNISHING

SEWERAGE AND SEWAGE DISPOSAL SERVICE

at Clendenin, Elkview and Pinch, and in the Elk River area near Charleston, Kanawha County, West Virginia

Filed with THE PUBLIC SERVICE COMMISSION
of
WEST VIRGINIA

Issued December 21, 2004 Effective for service rendered on and after December 20, 2004 or as otherwise provided herein

Issued by authority of an order of
The Public Service Commission of West Virginia
in Case No. 04-0712-PSD-42A final
December 20, 2004 or as otherwise provided herein

Issued by ELK VALLEY PUBLIC SERVICE DISTRICT, a public utility

By _____

Title

ELK VALLEY PUBLIC SERVICE DISTRICT

P.S.C. W.Va. Tariff No. 3
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.

ELK VALLEY PUBLIC SERVICE DISTRICT

P.S.C. W. Va. No. 3
Original Sheet No. 2

SCHEDULE I

(C) APPLICABILITY

Applicable within entire territory served

(C) AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service and sale for resale sewer service

(I) RATES

Customer Charge:	$10.95 per customer per month
Commodity Charge:	$ 3.57 per 1,000 gallons of water used per month

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

Equivalent of 4,500 gallons of water usage - $27.01 per month

(C,I) MINIMUM CHARGE

No bill will be rendered for less than $10.95 per month, which is the equivalent of the monthly customer charge.

(N) RETURNED CHECK CHARGE

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

(C) DISCONNECT/RECONNECT/ADMINISTRATIVE FEES

Whenever water service has been disconnected for nonpayment of sewer bills, in conjunction with a water service termination agreement with Elk Valley Public Service District, a disconnection fee of $20.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $20.00 shall be charged.

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

(N) Indicates new

ELK VALLEY PUBLIC SERVICE DISTRICT

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

SCHEDULE I (Continued)

(C) TOWN OF CLENDENIN PUBLIC UTILITY EXCISE TAX

The municipality listed below having imposed a public utility tax computed on the basis of two percent (2%) of revenues from sewer service sales by the sewer utility within the corporate limits of such municipality, said tax shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code §8-13-5A.

Municipality	Local Tax Rate
Town of Clendenin	2%

(C) 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.

(C) SERVICE CONNECTION FEE

A tap fee of $250.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This preconstruction 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 $250.00 will be charged to customers applying for service outside of a certificate proceeding before the Commission for each new tap to the system.

(C,I) INCREMENTAL COST OF WATER TREATMENT

$0.70 per M. gallons of water. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

(C) Indicates change in text

ELK VALLEY PUBLIC SERVICE DISTRICT

P.S.C. W. Va. No. 3
Original Sheet No. 4

SCHEDULE II

(C) SURFACE OR GROUNDWATER SURCHARGE

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 utility's sewer system, and such customer has failed to take appropriate action within thirty (30) days of receipt of a demand by the utility 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 collecting surface connected to the sanitary sewer, in square feet
R = the measured monthly rainfall as determined by the National Weather Service
C = the customer usage charge for the area in which customer is located

The utility 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.

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 and regulations of the Public Service Commission

SCHEDULE III

SURCHARGE FORMULA TO BE APPLIED IN THE CASES OF USERS PRODUCING UNUSUAL WASTE

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

$$Ci = VoVi + BoBi + SoSi$$

Ci = charge to unusual users per year
Vo = average unit cost of transport and treatment chargeable to volume, in dollars per gallon

Vi = volume of waste water from unusual users, in gallons per year
Bo = average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD), in dollars per pound
Bi = weight of BOD from unusual users, in pounds per year
So = average unit costs of treatment (including sludge treatment) chargeable to total solids, in dollars per pound
Si = 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 Elk Valley Public Service District, should not be introduced into the sewer system need not be handled by it. The results of this 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 Elk Valley Public Service District 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 Elk Valley Public Service District, as the case may be. Such audited figures will then be used for preliminary billing for the next fiscal year, at the end of which an adjustment will be made as

aforesaid.

ELK VALLEY PUBLIC SERVICE DISTRICT

P.S.C. W. Va. No. 3
Original Sheet No. 5

SCHEDULE IV

Where the amount of sanitary sewage discharged into the waste treatment system by certain industrial plant or plants cannot be accurately determined by the use of the plant=s water meter or meters, and the plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Elk Valley Public Service District a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

16–13A–1. Legislative findings.
16–13A–1a. Jurisdiction of the public service commission.
16–13A–1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16–13A–1c. General purpose of districts.
16–13A–2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.
16–13A–3. District to be a public corporation and political subdivision; powers thereof; public service boards.
16–13A–3a. Removal of members of public service board.
16–13A–4. Board chairman; members' compensation; procedure; district name.
16–13A–5. General manager of board.
16–13A–6. Employees of board.
16–13A–7. Acquisition and operation of district properties.
16–13A–8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16–13A–9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16–13A–9a. Limitations with respect to foreclosure.
16–13A–10. Budget.
16–13A–11. Accounts; audit.
16–13A–12. Disbursement of district funds.
16–13A–13. Revenue bonds.
16–13A–14. Items included in cost of properties.
16–13A–15. Bonds may be secured by trust indenture.
16–13A–16. Sinking fund for revenue bonds.
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§ 16–13A–1. Legislative findings

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

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

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

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

Cross References

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

Administrative Code References

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

Library References

Counties ⇐18.
Municipal Corporations ⇐5, 6.
Public Utilities ⇐145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

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1. Validity

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

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

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

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

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

2. In general

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

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

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

3. Construction and application

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

4. Eminent domain powers

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

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

5. Property of public service district

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

6. Rates and charges for service

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

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

Note 6

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

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

7. Creation and enforcement of liens

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

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

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

8. Admissibility of evidence

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

9. Costs

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

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

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

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

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

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

Acts 1986, c. 81.

Library References

Public Utilities ⇐145. Westlaw Topic No. 317A.

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

Notes of Decisions

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

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

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

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

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

Cross References

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

Library References

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

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

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

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

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

Library References

Counties ⇐18.
Gas ⇐12.
Municipal Corporations ⇐5, 6.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 104, 190, 268, 405.

C.J.S. Counties § 31.
C.J.S. Gas §§ 43 to 45.
C.J.S. Municipal Corporations § 11.
C.J.S. Waters §§ 483, 543 to 581.

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

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

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

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

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

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

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

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

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

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

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

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

Library References

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

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

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1. Validity

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

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

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

2. Creation of public service districts

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

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

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

3. District boundaries

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

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the 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); Municipal Corporations ⇐ 12(6)

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

5. Number of voters within district

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

6. Costs

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

7. Referendum

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Law Review and Journal Commentaries

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

"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).

Library References

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

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

Notes of Decisions

In general 1
Criminal responsibility of members 5
Ministerial officers, generally 3
Removal of members 4
Sale of water 6
Standard of care 2
Tort Claims Act 7

1. In general

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

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

2. Standard of care

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

3. Ministerial officers, generally

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

4. Removal of members

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

5. Criminal responsibility of members

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

6. Sale of water

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

7. Tort Claims Act

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

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

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

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

Library References

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

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

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; Judges ⇐ 21

3. Sufficiency of evidence

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

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

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

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

(b) Salaries of the board members are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16-13A-5. General manager of board

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

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

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

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

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

Library References

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

§ 16–13A–6. Employees of board

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

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

Library References

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

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

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

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

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

Library References

Counties ⇐107.
Municipal Corporations ⇐711.
Public Utilities ⇐114.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations § 1535.
C.J.S. Public Utilities §§ 5 to 9, 202 to 207.

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

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

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

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

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

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

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

Library References

Counties ⇐103, 104.
Eminent Domain ⇐6, 16.
Municipal Corporations ⇐221, 224.
Westlaw Topic Nos. 104, 148, 268.

C.J.S. Counties §§ 143 to 144, 147.
C.J.S. Municipal Corporations §§ 873 to 880.
C.J.S. Property § 17.

Notes of Decisions

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Public corporation 7
Validity 1
Valuation of property 4

1. Validity

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

Note 1

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

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

2. In general

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

3. Eminent domain powers

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

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

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to be taken. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence ⇐ 568(4)

5. Environmental assessment

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

6. Connections with sewers or drains

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

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

7. Public corporation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Law Review and Journal Commentaries

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

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

Library References

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

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

Notes of Decisions

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Validity 1

1. Validity

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

2. Takings

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

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

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

3. Public service district liens

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

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

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

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

4. Rates and charges for service

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

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

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

5. Notice of availability of sewer service

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

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

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

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

Acts 1982, c. 74.

Library References

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

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

§ 16–13A–10. Budget

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

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

Library References

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

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

Notes of Decisions

In general 1

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1. In general

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

§ 16–13A–11. Accounts; audit

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

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

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

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

Library References

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

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

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

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

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

Library References

Counties ⇐158.
Municipal Corporations ⇐883.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 198.
C.J.S. Municipal Corporations §§ 1626, 1635.

§ 16–13A–13. Revenue bonds

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

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

Library References

Counties ⇐174.
Municipal Corporations ⇐911.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1649.

Notes of Decisions

In general 1

1. In general

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

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

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

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

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

Library References

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

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

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

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

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

Acts 1953, c. 147.

Library References

Counties ⇐183.
Municipal Corporations ⇐950(15).
Westlaw Topic Nos. 104, 268.

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

United States Code Annotated

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

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

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

Acts 1953, c. 147.

Library References

Counties ⇐186.5.
Municipal Corporations ⇐951.
Westlaw Topic Nos. 104, 268.

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

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

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

Acts 1953, c. 147.

Library References

Counties ⇐188.
Municipal Corporations ⇐937, 955.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. **In general**

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

§ 16–13A–18. Operating contracts

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

Acts 1953, c. 147.

Library References

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

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

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

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

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

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

Library References

Counties ⇐110.
Municipal Corporations ⇐225.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations §§ 882 to 892.

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

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

Acts 1953, c. 147.

Library References

Counties ⇐188.
Municipal Corporations ⇐937, 955.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–20. Refunding revenue bonds

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

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

Acts 1953, c. 147.

Library References

Counties ⇐175.
Municipal Corporations ⇐913.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

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

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

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

Library References

Counties ⇐18.
Municipal Corporations ⇐5.
Taxation ⇐2316, 3519.
Westlaw Topic Nos. 104, 268, 371.
C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2
Validity 1

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1. Validity

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

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

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

2. In general

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

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

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

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

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

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

Library References

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

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

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

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

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

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

Library References

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

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

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

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

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

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

Library References

Counties ⇐149.
Municipal Corporations ⇐864(3).
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 185, 187.
C.J.S. Municipal Corporations §§ 1583 to 1585, 1587.

Notes of Decisions

In general 1

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. 62 W.Va. Op.Atty.Gen. 27 (May 6, 1988) 1988 WL 483331.

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

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

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

(1) Experience with the same engineering firm; or

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

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

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

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

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

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

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

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

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

Library References

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

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

Research References

ALR Library

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

Notes of Decisions

In general 1
Certificate of public convenience and necessity 2

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1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and environmentally sound. Code, 16–13A–25, 24–2–11, 24–2–11(a). Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇐ 708

2. Certificate of public convenience and necessity

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

the respective officers and departments thereof, including the sanitary board, are governe by the provisions of this article.

(k) The jurisdiction and authority provided by this section does not extend to highway road and drainage easements and stormwater facilities constructed, owned or operated by th West Virginia Division of Highways and no rates, fees or charges for stormwater services c costs of compliance may be assessed against highways, road and drainage easements and/c stormwater facilities constructed, owned and/or operated by the West Virginia Division c Highways.

(l) A municipality which has been designated by the Environmental Protection Agency a an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 4 C. F. R. § 122.26, has the authority to enact ordinances or regulations which allow for th issuance of orders, the right to enter properties and the right to impose reasonable fines an penalties regarding correction of violations of municipal stormwater ordinances or regulation within the municipal watershed served by the municipal stormwater system, as long as suc rules, regulations, fines or actions are not contrary to any rules or orders of the Publi Service Commission.

(m) Notice of a violation of a municipal stormwater ordinance or regulation shall be serve in person to the alleged violator or by certified mail return receipt requested. The notic shall state the nature of the violation, the potential penalty, the action required to correct th violation and the time limit for making the correction. Should a person, after receipt c proper notice, fail to correct the violation of the municipal stormwater ordinance or regula tion, the municipality may make or have made the corrections of the violation and bring th party into compliance with the applicable stormwater ordinance or regulation. The munic pality may collect the costs of correcting the violation from the person by instituting a civi action, as long as such actions are not contrary to any rules or orders of the Public Servic Commission.

(n) A municipality which has been designated by the Environmental Protection Agency a an entity to serve a West Virginia Separate Storm Sewer System community shall prepare a annual report detailing the collection and expenditure of rates, fees or charges and make i available for public review at the place of business of the governing body and the stormwate utility main office.

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001 Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section		Section	
16–13A–9.	Rules; service rates and charges; discontinuance of service; required		water and sewer connections; lie for delinquent fees.

§ 16–13A–9. Rules; service rates and charges; discontinuance of service; re quired water and sewer connections; lien for delinquent fee

(a)(1) The board may make, enact and enforce all needful rules in connection with th 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 an principal of and interest on all bonds issued, other obligations incurred under the provision of this article and all reserve or other payments provided for in the proceedings whic authorized the issuance of any bonds under this article. The schedule of the rates, fees an charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking int 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 service 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 water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges: *Provided,* That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bill. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district

providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however,* That any termination of water service must comply with all rules and orders of the Public Service Commission.

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

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

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

(f) All delinquent fees, rates and charges of the district for either water facilities, sew facilities, gas facilities or stormwater systems or stormwater management programs are lie on the premises served of equal dignity, rank and priority with the lien on the premises state, county, school and municipal taxes. In addition to the other remedies provided in tl section, public service districts are granted a deferral of filing fees or other fees and co incidental to the bringing and maintenance of an action in magistrate court for the collecti of delinquent water, sewer, stormwater or gas bills. If the district collects the delinque account, plus reasonable costs, from its customer or other responsible party, the district sh pay to the magistrate the normal filing fee and reasonable costs which were previou deferred. In addition, each public service district may exchange with other public servi districts a list of delinquent accounts: *Provided,* That an owner of real property may not held liable for the delinquent rates or charges for services or facilities of a tenant, nor m any lien attach to real property for the reason of delinquent rates or charges for services facilities of a tenant of the real property, unless the owner has contracted directly with t public service district to purchase the services or facilities.

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

(h) A public service district which has been designated by the Environmental Protecti Agency as an entity to serve a West Virginia Separate Storm Sewer System community sh prepare an annual report detailing the collection and expenditure of rates, fees or charges a make it available for public review at the place of business of the governing body and t stormwater utility main office.

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

ARTICLE 19

REVISED ANATOMICAL GIFT ACT

Section		Section	
16-19-1.	Short title.	16-19-13.	Delivery of document of gift not quired; right to examine.
16-19-2.	Applicability.	16-19-14.	Rights and duties of procurement ganization and others.
16-19-3.	Definitions.	16-19-15.	Coordination of procurement and us
16-19-4.	Who may make anatomical gift before donor's death.	16-19-16.	Prohibited acts; sale or purchase parts prohibited.
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16-19-10.	Manner of making, amending, or revoking anatomical gift of decedent's body or part.	16-19-22.	Facilitation of anatomical gift from cedent whose body is under jurisc tion of medical examiner.
16-19-11.	Persons who may receive anatomical gift; purpose of anatomical gift.	16-19-23.	Relation to Electronic Signatures Global and National Commerce A
16-19-12.	Search and notification.		

Acts 2008, c. 191, replaced the Anatomical Gift Act (§§ 16-9-1 to 16-9-14) with the Revised Anatomical Gift Act (§§ 16-9-1 to 16-9-23).

ARTICLE 1

WATER DEVELOPMENT AUTHORITY

Section

22C–1–1. Short title.
22C–1–2. Declaration of policy and responsibility; purpose and intent of article; findings.
22C–1–3. Definitions.
22C–1–4. Water development authority; water development board; organization of authority and board; appointment of board members; their term of office, compensation and expenses; director of authority; compensation.
22C–1–5. Authority may construct, finance, maintain, etc., water development projects; loans to governmental agencies are subject to terms of loan agreements.
22C–1–6. Powers, duties and responsibilities of authority generally.
22C–1–7. Power of authority to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.
22C–1–8. Expenditure of funds for study and engineering of proposed projects.
22C–1–9. Authority empowered to issue water development revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
22C–1–10. Trustee for bondholders; contents of trust agreement.
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22C–1–12. Legal remedies of bondholders and trustees.
22C–1–13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.
22C–1–14. Use of funds by authority; restrictions thereon.
22C–1–15. Investment of funds by authority.
22C–1–16. Rentals and other revenues from water development projects owned by the authority; contracts and leases of the authority; cooperation of other governmental agencies; bonds of such agencies.
22C–1–17. Maintenance, operation and repair of projects; reports by authority to governor and Legislature.
22C–1–18. Water development bonds lawful investments.
22C–1–19. Purchase and cancellation of notes or bonds.
22C–1–20. Refunding bonds.
22C–1–21. Exemption from taxation.
22C–1–22. Acquisition of property by authority—Acquisition by purchase; governmental agencies authorized to convey, etc., property.
22C–1–23. Same—Acquisition under subdivision (10), section six of this article; property of public utilities and common carriers; relocation, restoration, etc., of highways and public utility facilities.
22C–1–24. Financial interest in contracts prohibited; penalty.
22C–1–25. Meetings and records of authority to be kept public.
22C–1–26. Liberal construction of article.
22C–1–27. Authorized limit on borrowing.

§ 22C–1–1. Short title

This article shall be known and cited as the "Water Development Authority Act."

Acts 1994, c. 61.

Cross References

Environmental protection division, allocation of appropriations and effect on personnel, see § 22–1–10.

Administrative Code References

Water Development Authority rules, see W. Va. Code St. R. § 44–1–1 et seq.

United States Code Annotated

Grants to states, water resources planning, see 42 U.S.C.A. § 1962c et seq.
River basin commissions, see 42 U.S.C.A. § 1962b et seq.
Water resources planning, see 42 U.S.C.A. § 1962 et seq.

§ 22C–1–2. Declaration of policy and responsibility; purpose and intent of article; findings

It is hereby declared to be the public policy of the state of West Virginia and a responsibility of the state of West Virginia, through the establishment, funding, operation and maintenance of water development projects, to maintain, preserve, protect, conserve and in all instances possible to improve the purity and quality of water within the state in order to: (1) Protect and improve public health; (2) assure the fullest use and enjoyment of such water by the public; (3) provide suitable environment for the propagation and protection of animal, bird, fish, aquatic and plant life, all of which are essential to the health and well-being of the public; and (4) provide water of the necessary quality and in the amount needed for the development, maintenance and expansion of, and to attract service industries and businesses, agriculture, mining, manufacturing and other types of businesses and industries.

To assist in the preservation, protection, improvement and management of the purity and quality of the waters of this state, to prevent or abate pollution of water resources and to promote the health and welfare of citizens of this state, it is the purpose and intent of the Legislature in enacting this article to provide for the necessary, dependable, effective and efficient purification of water; the disposal of liquid and solid wastes harmful to the public health and safety removed from such water; to improve water and stream quality; and to assist and cooperate with governmental agencies in achieving all of the purposes set forth in this section.

The Legislature finds and hereby declares that the responsibility of the state as outlined above cannot be effectively met without the establishment, funding, operation and maintenance of water development projects as provided for in this article.

Acts 1994, c. 61.

Library References

Environmental Law ⇐165.
Waters and Water Courses ⇐182.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment § 172.
C.J.S. Waters §§ 483, 505.

§ 22C–1–3. Definitions

As used in this article, unless the context clearly requires a different meaning:

(1) "Authority" means the water development authority provided for in section four of this article, the duties, powers, responsibilities and functions of which are specified in this article.

(2) "Beneficial use" means a use of water by a person or by the general public that is consistent with the public interest, health and welfare in utilizing the water resources of this state, including, but not limited to, domestic, agricultural, irrigation, industrial, manufacturing, mining, power, public, sanitary, fish and wildlife, state, county, municipal, navigational, recreational, aesthetic and scenic use.

(3) "Board" means the water development authority board provided for in section four of this article, which shall manage and control the water development authority.

(4) "Bond" or "water development revenue bond" means a revenue bond or note issued by the water development authority to effect the intents and purposes of this article.

(5) "Construction" includes reconstruction, enlargement, improvement and providing furnishings or equipment.

(6) "Cost" means, as applied to water development projects, the cost of their acquisition and construction; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and interests required by the authority for such acquisition and construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved; the cost of acquiring or constructing and equipping a principal office and suboffices of the authority; the cost of diverting highways, interchange of highways; access roads to private property, including the cost of land or easements therefor; the cost of all machinery, furnishings, and equipment; all financing charges, and interest prior to and during construction and for no more than eighteen months after completion of construction; the cost of all engineering services and all expenses of research and development with respect to public water or wastewater facilities; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost and revenues; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing any such project; all administrative expenses and such other expenses as may be necessary or incident to the acquisition or construction of the project; the financing of such acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of water development revenue bonds to be paid into any special funds from the proceeds of such bonds; and the financing of the placing of any such project in operation. Any obligation or expenses incurred by any governmental agency, with the approval of the authority, for surveys, borings, preparation of plans and specifications and

other engineering services in connection with the acquisition or construction of a project are a part of the cost of such project and shall be reimbursed out of the proceeds of loans or water development revenue bonds as authorized by the provisions of this article.

(7) "Establishment" means an industrial establishment, mill, factory, tannery, paper or pulp mill, mine, colliery, breaker or mineral processing operation, quarry, refinery, well and each and every industry or plant or works or activity in the operation or process of which industrial wastes or other wastes are produced.

(8) "Governmental agency" means the state government or any agency, department, division or unit thereof; counties; municipalities; watershed improvement districts; soil conservation districts; sanitary districts; public service districts; drainage districts; regional governmental authorities and any other governmental agency, entity, political subdivision, public corporation or agency having the authority to acquire, construct or operate public water or wastewater facilities; the United States government or any agency, department, division or unit thereof; and any agency, commission or authority established pursuant to an interstate compact or agreement.

(9) "Industrial wastes" means any liquid, gaseous, solid or other waste substance, or any combination thereof, resulting from or incidental to any process of industry, manufacturing, trade or business, or from or incidental to the development, processing or recovery of any natural resources; and the admixture with such industrial wastes of sewage or other wastes, as defined in this section, are also industrial wastes.

(10) "Other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark and other wood debris and residues, sand, lime, cinders, ashes, offal, night soil, silt, oil, tar, dyestuffs, acids, chemicals, and all other materials or substances not sewage or industrial wastes which may cause or might reasonably be expected to cause or to contribute to the pollution of any of the waters of this state.

(11) "Owner" includes all persons, copartnerships or governmental agencies having any title or interest in any property rights, easements and interests authorized to be acquired by this article.

(12) "Person" means any public or private corporation, institution, association, firm or company organized or existing under the laws of this or any other state or country; the United States or the state of West Virginia; any federal or state governmental agency; political subdivision; county commission; municipality; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group or any other legal entity whatever.

(13) "Pollution" means (a) the discharge, release, escape, deposit or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes, or other wastes, of whatever kind or character, in or near any waters of the state, in such condition, manner or quantity, as does, will, or is likely to (1)

contaminate or substantially contribute to the contamination of any of such waters, or (2) alter or substantially contribute to the alteration of the physical, chemical or biological properties of any of such waters, if such contamination or alteration, or the resulting contamination or alteration where a person only contributes thereto, is to such an extent as to make any of such waters (i) directly or indirectly harmful, detrimental or injurious to the public health, safety and welfare, or (ii) directly or indirectly detrimental to existing animal, bird, fish, aquatic or plant life, or (iii) unsuitable for present or future domestic, commercial, industrial, agricultural, recreational, scenic or other legitimate uses; and also means (b) the discharge, release, escape, deposit, or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes or other wastes, of whatever kind or character, in or near any waters of the state in such condition, manner or quantity, as does, will, or is likely to reduce the quality of the waters of the state below the standards established therefor by the United States or any department, agency, board or commission of this state authorized to establish such standards.

(14) "Project" or "water development project" means any public water or wastewater facility, the acquisition or construction of which is authorized, in whole or in part, by the water development authority or the acquisition or construction of which is financed, in whole or in part, from funds made available by grant or loan by, or through, the authority as provided in this article, including facilities, the acquisition or construction of which is authorized, in whole or in part, by the water development authority or the acquisition or construction of which is financed, in whole or in part, from funds made available by grant or loan by, or through, the authority as provided in this article, including all buildings and facilities which the authority deems necessary for the operation of the project, together with all property, rights, easements and interest which may be required for the operation of the project, but excluding all buildings and facilities used to produce electricity other than electricity for consumption by the authority in the operation and maintenance of the project.

(15) "Public roads" mean all public highways, roads and streets in this state, whether maintained by the state, county, municipality or other political subdivision.

(16) "Public utility facilities" means public utility plants or installations and includes tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility.

(17) "Revenue" means any money or thing of value collected by, or paid to, the water development authority as rent, use or service fee or charge for use of, or in connection with, any water development project, or as principal of or interest, charges or other fees on loans, or any other collections on loans made by the water development authority to governmental agencies to finance, in whole or in part, the acquisition or construction of any water development project or projects, or other money or property which is received and may be expended for or pledged as revenues pursuant to this article.

(18) "Sewage" means water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface waters as may be present.

(19) "Water resources," "water" or "waters" means any and all water on or beneath the surface of the ground, whether percolating, standing, diffused or flowing, wholly or partially within this state, or bordering this state and within its jurisdiction, and includes, without limiting the generality of the foregoing, natural or artificial lakes, rivers, streams, creeks, branches, brooks, ponds (except farm ponds, industrial settling basins and ponds and water treatment facilities), impounding reservoirs, springs, wells and watercourses.

(20) "Wastewater" means any water containing sewage, industrial wastes, or other wastes or contaminants derived from the prior use of such water, and includes, without limiting the generality of the foregoing, surface water of the type storm sewers are designed to collect and dispose of.

(21) "Wastewater facilities" means facilities for the purpose of treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding wastewater, including, without limiting the generality of the foregoing, facilities for the treatment and disposal of sewage, industrial wastes, or other wastes, wastewater, and the residue thereof; facilities for the temporary or permanent impoundment of wastewater, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport wastewater together with the equipment and furnishings thereof and their appurtenances and systems, whether on the surface or underground, including force mains and pumping facilities therefor.

(22) "Water facility" means all facilities, land and equipment used for the collection of water, both surface and underground, transportation of water, treatment of water and distribution of water all for the purpose of providing potable, sanitary water suitable for human consumption and use.

Acts 1994, c. 61.

Notes of Decisions

Person 1

1. Person

The state and its political subdivisions are within the meaning of the terms "person" and "another" as those terms are used in the statute prohibiting one from obtaining money, goods, labor, services and other things of value from another person under false pretenses; thus, the state and its political subdivisions may be the victim of that offense. Code, 61–3–24(a, d); Code, 61–3–24(a, b) (1993); Code, 61–3–24(a, b) (1987). State v. Zain, 1999, 528 S.E.2d 748, 207 W.Va. 54, certiorari denied 120 S.Ct. 1541, 529 U.S. 1042, 146 L.Ed.2d 354. False Pretenses ⇐ 1

§ 22C–1–4. Water development authority; water development board; organization of authority and board; appointment of board members; their term of office, compensation and expenses; director of authority; compensation

(a) The water development authority is continued. The authority is a governmental instrumentality of the state and a body corporate. The exercise by the authority of the powers conferred by this article and the carrying out of its

purposes and duties are essential governmental functions and for a public purpose.

(b) The authority is controlled, managed and operated by a seven-member board known as the water development board. The governor or designee, the secretary of the department of environmental protection or designee and the commissioner of the bureau for public health or designee are members ex officio of the board. Four members are appointed by the governor, by and with the advice and consent of the Senate, for six-year terms, which are staggered in accordance with the initial appointments under prior enactment of this section. In the event of a vacancy, appointments are filled in the same manner as the original appointment for the remainder of the unexpired term. A member continues to serve until the appointment and qualification of the successor. More than two appointed board members may not at any one time belong to the same political party. Appointed board members may be reappointed to serve additional terms.

(c) All members of the board shall be citizens of the state. Each appointed member of the board, before entering upon his or her duties, shall comply with the requirements of article one, chapter six of this code and give bond in the sum of twenty-five thousand dollars in the manner provided in article two of said chapter. The governor may remove any board member for cause as provided in article six of said chapter.

(d) The governor or designee serves as chair. The board annually elects one of its appointed members as vice chair and appoints a secretary-treasurer, who need not be a member of the board. Four members of the board is a quorum and the affirmative vote of four members is necessary for any action taken by vote of the board. A vacancy in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority. The person appointed as secretary-treasurer, including a board member if so appointed, shall give bond in the sum of fifty thousand dollars in the manner provided in article two, chapter six of this code.

(e) The governor or designee, the secretary of the department of environmental protection and the commissioner of the bureau for public health do not receive compensation for serving as board members. Each appointed member receives an annual salary of twelve thousand dollars, payable in monthly installments. Each of the seven board members is reimbursed for all reasonable and necessary expenses actually incurred in the performance of duties as a member of the board in a manner consistent with guidelines of the travel management office of the department of administration. All expenses incurred by the board are payable solely from funds of the authority or from funds appropriated for that purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or from such appropriations.

(f) There is a director of the authority appointed by the governor, with the advice and consent of the Senate, who serves at the governor's will and

pleasure. The director is responsible for managing and administering the daily functions of the authority and for performing other functions necessary to the effective operation of the authority. The compensation of the director is fixed annually by the board.

Acts 1994, c. 61; Acts 1995, c. 252, eff. 90 days after March 3, 1995; Acts 2001, c. 262, eff. April 14, 2001; Acts 2002, c. 267, eff. 90 days after March 9, 2002; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005.

Library References

Environmental Law ⇐216.
Waters and Water Courses ⇐18.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 368, 377 to 379.

§ 22C-1-5. Authority may construct, finance, maintain, etc., water development projects; loans to governmental agencies are subject to terms of loan agreements

To accomplish the public policies and purposes and to meet the responsibility of the state as set forth in this article, the water development authority may initiate, acquire, construct, maintain, repair and operate water development projects or cause the same to be operated pursuant to a lease, sublease or agreement with any person or governmental agency; may make loans and grants to governmental agencies for the acquisition or construction of water development projects by governmental agencies, which loans may include amounts to refinance debt issued for existing water development projects of the governmental agency when the refinancing is in conjunction with the financing for a new water development project regardless of the source of the financing for the new project: Provided, That the amount of the refinancing may not exceed fifty percent of the aggregate amount of the refinancing of an existing project and the financing of a new project; and may issue water development revenue bonds of this state, payable solely from revenues, to pay the cost of projects, or finance projects, in whole or in part, by loans to governmental agencies. A water development project shall not be undertaken unless it has been determined by the authority to be consistent with any applicable comprehensive plan of water management approved by the director of the division of environmental protection or in the process of preparation by the director and to be consistent with the standards set by the state environmental quality board, for the waters of the state affected thereby. Any resolution of the authority providing for acquiring or constructing projects or for making a loan or grant for projects shall include a finding by the authority that the determinations have been made. A loan agreement shall be entered into between the authority and each governmental agency to which a loan is made for the acquisition or construction of a water development project, which loan agreement shall include, without limitation, the following provisions:

(1) The cost of the project, the amount of the loan, the terms of repayment of the loan and the security therefor, which may include, in addition to the pledge of all revenues from the project after a reasonable allowance for operation and

maintenance expenses, a deed of trust or other appropriate security instrument creating a lien on the project;

(2) The specific purposes for which the proceeds of the loan shall be expended including the refinancing of existing water development project debt as provided above, the procedures as to the disbursement of loan proceeds and the duties and obligations imposed upon the governmental agency in regard to the construction or acquisition of the project;

(3) The agreement of the governmental agency to impose, collect, and, if required to repay the obligations of the governmental agency under the loan agreement, increase service charges from persons using the project, which service charges shall be pledged for the repayment of the loan together with all interest, fees and charges thereon and all other financial obligations of the governmental agency under the loan agreement; and

(4) The agreement of the governmental agency to comply with all applicable laws, rules and regulations issued by the authority or other state, federal and local bodies in regard to the construction, operation, maintenance and use of the project.

Acts 1994, c. 61; Acts 1995, c. 252, eff. 90 days after March 3, 1995.

Library References

Environmental Law ⇐216, 216.
Waters and Water Courses ⇐18, 18.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 368, 377 to 379.

Notes of Decisions

In general 1

1. In general

Statute authorizes Water Development Authority (WDA) to directly impose on public service district, which operates public utility as defined by separate statutory provision, in its own name and for its own benefit service charges determined by it to be necessary when public service district defaults on loan made by Water Development Authority to public service district; however, Water Development Authority's power to impose such service charges upon public service district which operates public utility is subject to regulatory review and approval of Public Service Commission (PSC) pursuant to separate statute. Code, 22C–1–7, 24–1–2, 24–2–1. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Waters And Water Courses ⇐ 183.5

§ 22C–1–6. Powers, duties and responsibilities of authority generally

The water development authority, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose. The authority has the power and capacity to:

(1) Adopt, and from time to time, amend and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules to implement and make effective its powers and duties, such rules to be promulgated in accordance with the provisions of chapter twenty-nine-a of this code.

(2) Adopt an official seal.

(3) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided.

(4) Sue and be sued in its own name and plead and be impleaded in its own name, and particularly to enforce the obligations and covenants made under sections nine, ten and sixteen of this article. Any actions against the authority shall be brought in the circuit court of Kanawha County in which the principal office of the authority shall be located.

(5) Make loans and grants to governmental agencies for the acquisition or construction of water development projects by any such governmental agency and, in accordance with the provisions of chapter twenty-nine-a of this code, adopt rules and procedures for making such loans and grants.

(6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by a governmental agency or person, water development projects, and, in accordance with the provisions of chapter twenty-nine-a of this code, adopt rules for the use of such projects.

(7) Make available the use or services of any water development project to one or more persons, one or more governmental agencies, or any combination thereof.

(8) Issue water development revenue bonds and notes and water development revenue refunding bonds of the state, payable solely from revenues as provided in section nine of this article unless the bonds are refunded by refunding bonds, for the purpose of paying all or any part of the cost of, or financing by loans to governmental agencies, one or more water development projects or parts thereof.

(9) Acquire by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties as set forth in this article.

(10) Acquire in the name of the state, by purchase or otherwise, on such terms and in such manner as it deems proper, or by the exercise of the right of eminent domain in the manner provided in chapter fifty-four of this code, such public or private lands, or parts thereof or rights therein, rights-of-way, property, rights, easements and interests it deems necessary for carrying out the provisions of this article, but excluding the acquisition by the exercise of the right of eminent domain of any public water or wastewater facilities operated under permits issued pursuant to the provisions of article eleven, chapter twenty-two of this code and owned by any person or governmental agency, and compensation shall be paid for public or private lands so taken.

(11) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers. When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than two thousand dollars, the authority shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal

advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, the publication area for such publication to be the county wherein the work is to be performed or which is affected by the contract, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined and the time and place of receiving bids, but a contract or lease for the operation of a water development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a water development project pursuant to section sixteen of this article is not subject to the foregoing requirements and the authority may enter into such contract or lease or such agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project. The authority may reject any and all bids. A bond with good and sufficient surety, approved by the authority, is required of all contractors in an amount equal to at least fifty percent of the contract price, conditioned upon the faithful performance of the contract.

(12) Employ managers, superintendents and other employees, who are covered by the state civil service system, and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys and such other consultants and independent contractors as are necessary in its judgment to carry out the provisions of this article, and fix the compensation or fees thereof. All expenses thereof are payable solely from the proceeds of water development revenue bonds or notes issued by the authority, from revenues and from funds appropriated for such purpose by the Legislature.

(13) Receive and accept from any federal agency, subject to the approval of the governor, grants for or in aid of the construction of any water development project or for research and development with respect to public water or wastewater facilities and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made.

(14) Engage in research and development with respect to public water or wastewater facilities.

(15) Purchase property coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability, if any, for damage to property or injury to or death of persons arising from its operations and any other insurance the authority may agree to provide under any resolution authorizing the issuance of water development revenue bonds or in any trust agreement securing the same.

(16) Charge, alter and collect rentals and other charges for the use or services of any water development project as provided in this article, and charge and collect reasonable interest, fees and charges in connection with the

making and servicing of loans to governmental agencies in the furtherance of the purposes of this article.

(17) Establish or increase reserves from moneys received or to be received by the authority to secure or to pay the principal of and interest on the bonds and notes issued by the authority pursuant to this article.

(18) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

Acts 1994, c. 61.

§ 22C–1–7. Power of authority to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights

In order to ensure that the public purposes to be served by the authority may be properly carried out and in order to assure the timely payment to the authority of all sums due and owing under loan agreements with governmental agencies, as referred to in section five of this article, notwithstanding any provision to the contrary elsewhere contained in this code, in event of any default by a governmental agency under such a loan agreement, the authority has, and may, at its option, exercise the following rights and remedies in addition to the rights and remedies conferred by law or pursuant to said loan agreement:

(1) The authority may directly impose, in its own name and for its own benefit service charges determined by it to be necessary under the circumstances upon all users of the water development project to be acquired or constructed pursuant to such loan agreement, and proceed directly to enforce and collect such service charges, together with all necessary costs of such enforcement and collection.

(2) The authority may exercise, in its own name or in the name of and as agent for the governmental agency, all of the rights, authority, powers and remedies of the governmental agency with respect to the water development project or which may be conferred upon the governmental agency by statute, rule, regulation or judicial decision, including, without limitation, all rights and remedies with respect to users of such water development project.

(3) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by such governmental agency of all of the terms and conditions of such loan agreement including, without limitation, the adjustment and increase of service charges as required to repay the loan or otherwise satisfy the terms of such loan agreement, the enforcement and collection of such service charges and the enforcement by such governmental agency of all rights and remedies conferred by statute, rule, regulation or judicial decision.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Waters and Water Courses ⇐183.5, 203.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581, 666 to 732.

Notes of Decisions

In general 1

1. In general

Statute authorizes Water Development Authority (WDA) to directly impose on public service district, which operates public utility as defined by separate statutory provision, in its own name and for its own benefit service charges determined by it to be necessary when public service district defaults on loan made by Water Development Authority to public service district; however, Water Development Authority's power to impose such service charges upon public service district which operates public utility is subject to regulatory review and approval of Public Service Commission (PSC) pursuant to separate statute. Code, 22C–1–7, 24–1–2, 24–2–1. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Waters And Water Courses ⇐ 183.5

§ 22C–1–8. Expenditure of funds for study and engineering of proposed projects

With the approval and the consent of the board, either the director of the division of environmental protection or the commissioner of the bureau of public health, or both of them, shall expend, out of any funds available for the purpose, such moneys as are necessary for the study of any proposed water development project and may use its engineering and other forces, including consulting engineers and sanitary engineers, for the purpose of effecting such study. All such expenses incurred by the director or commissioner prior to the issuance of water development revenue bonds or notes under this article shall be paid by the director or commissioner and charged to the appropriate water development project and the director and commissioner shall keep proper records and accounts, showing the amounts so charged. Upon the sale of water development revenue bonds or notes for a water development project, the funds so expended by the director or commissioner, with the approval of the authority, in connection with such project, shall be repaid to the division of environmental protection or bureau of public health from the proceeds of such bonds or notes.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–9. Authority empowered to issue water development revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance

The authority is hereby empowered to issue from time to time water development revenue bonds and notes of the state in such principal amounts as the authority deems necessary to pay the cost of or finance, in whole or in part, by loans to governmental agencies, one or more water development projects, but

the aggregate amount of all issues of bonds and notes outstanding at one time for all projects authorized hereunder shall not exceed that amount capable of being serviced by revenues received from such projects.

The authority may, from time to time, issue renewal notes, issue bonds to pay such notes and whenever it deems refunding expedient, refund any bonds by the issuance of water development revenue refunding bonds by the state pursuant to the provisions of section twenty of this article. Except as may otherwise be expressly provided in this article or by the authority, every issue of its bonds or notes are obligations of the authority payable out of the revenues and reserves created for such purposes by the authority, which are pledged for such payment, without preference or priority of the first bonds issued, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues. Such pledge is valid and binding from the time the pledge is made and the revenues so pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof.

All such bonds and notes shall have and are hereby declared to have all the qualities of negotiable instruments.

The bonds and notes shall be authorized by resolution of the authority, bear such date and mature at such time, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution may provide. The bonds and notes shall bear interest at such rate, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by the chair and vice-chair of the authority, both of whom may use facsimile signatures. The official seal of the authority or a facsimile thereof shall be affixed thereto or printed thereon and attested, manually or by facsimile signature, by the secretary-treasurer of the authority, and any coupons attached thereto shall bear the signature or facsimile signature of the chair of the authority. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery and in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes such facsimile seal will continue to be sufficient for all purposes.

Any resolution authorizing any bonds or notes or any issue thereof may contain provisions (subject to such agreements with bondholders or noteholders as may then exist, which provisions shall be a part of the contract with the

holders thereof) as to pledging all or any part of the revenues of the authority to secure the payment of the bonds or notes or of any issue thereof; the use and disposition of revenues of the authority; a covenant to fix, alter and collect rentals and other charges so that pledged revenues will be sufficient to pay the costs of operation, maintenance and repairs, pay principal of and interest on bonds or notes secured by the pledge of such revenues and provide such reserves as may be required by the applicable resolution or trust agreement; the setting aside of reserve funds, sinking funds or replacement and improvement funds and the regulation and disposition thereof; the crediting of the proceeds of the sale of bonds or notes to and among the funds referred to or provided for in the resolution authorizing the issuance of the bonds or notes; the use, lease, sale or other disposition of any water development project or any other assets of the authority; limitations on the purpose to which the proceeds of sale of bonds or notes may be applied and pledging such proceeds to secure the payment of the bonds or notes or of any issue thereof; notes issued in anticipation of the issuance of bonds, the agreement of the authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds or notes; the terms upon which additional bonds or notes may be issued and secured; the refunding of outstanding bonds or notes; the procedure, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which must consent thereto and the manner in which such consent may be given; limitations on the amount of moneys to be expended by the authority for operating, administrative or other expenses of the authority; securing any bonds or notes by a trust agreement; and any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes.

In the event that the sum of all reserves pledged to the payment of such bonds or notes are less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of such bonds or notes, the chair of the authority shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor of the state, for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the authority to be pledged for payment of such bonds or notes: Provided, That the Legislature is not required to make any appropriation so requested, and the amount of such deficiencies is not a debt or liability of the state.

Neither the members of the authority nor any person executing the bonds or notes are liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐146.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 437 to 455.
C.J.S. Waters §§ 483, 543 to 581.

Notes of Decisions

In general 1

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1. In general

Statute authorizes Water Development Authority (WDA) to directly impose on public service district, which operates public utility as defined by separate statutory provision, in its own name and for its own benefit service charges determined by it to be necessary when public service district defaults on loan made by Water Development Authority to public service district; however, Water Development Authority's power to impose such service charges upon public service district which operates public utility is subject to regulatory review and approval of Public Service Commission (PSC) pursuant to separate statute. Code, 22C–1–7, 24–1–2, 24–2–1. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Waters And Water Courses ⇐ 183.5

§ 22C–1–10. Trustee for bondholders; contents of trust agreement

In the discretion of the authority, any water development revenue bonds or notes or water development revenue refunding bonds issued by the authority under this article may be secured by a trust agreement between the authority and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within or without this state.

Any such trust agreement may pledge or assign revenues of the authority to be received, but shall not convey or mortgage any water development project or any part thereof. Any such trust agreement or any resolution providing for the issuance of such bonds or notes may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section nine of this article and covenants setting forth the duties of the authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation and insurance of the water development project the cost of which is paid, in whole or in part, from the proceeds of such bonds or notes, the rentals or other charges to be imposed for the use or services of any water development project, provisions with regard to the payment of the principal of and interest, charges and fees on loans made to governmental agencies from the proceeds of such bonds or notes, the custody, safeguarding, and application of all moneys and provisions for the employment of consulting engineers in connection with the construction or operation of such water development project. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or notes or of revenues shall furnish such indemnifying bonds or pledge such securities as are required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreements or trust indentures securing similar bonds. Such trust agreement may contain such other provisions as the authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the

cost of the operation of the water development project. Any such trust agreement or resolution authorizing the issuance of water development revenue bonds may provide the method whereby the general administrative overhead expenses of the authority will be allocated among the several projects acquired or constructed by it as a factor of the operating expenses of each such project.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐146.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 437 to 455.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–11. Trust agreements for related responsibilities; reimbursements

Notwithstanding any other provision of this code to the contrary, when the authority acts in the capacity of fiscal agent, authorizing authority or some other capacity for any agency, department, instrumentality or public corporation of the state which is issuing or purchasing bonds or notes, the authority may, in the exercise of its responsibilities, enter into trust agreements with one or more trust companies or banking institutions having trust powers, located within or without the state, with respect to the receipt, investment, handling, payment and delivery of funds of such agency, department, instrumentality or public corporation. The authority is entitled to reimbursement for the expenses of the authority incident to performing such services, including the fees and expenses of third parties providing services to the authority with respect thereto, from the proceeds of bonds or notes or of the revenues derived by such agency, department, instrumentality or public corporation.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐146.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 437 to 455.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–12. Legal remedies of bondholders and trustees

Any holder of water development revenue bonds issued under the authority of this article or any of the coupons appertaining thereto and the trustee under any trust agreement, except to the extent the rights given by this article may be restricted by the applicable resolution or such trust agreement, may by civil action, mandamus or other proceedings, protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this article, or by the trust agreement or resolution, to be performed by the authority or any officer

thereof, including the fixing, charging and collecting of sufficient rentals or other charges.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐160.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States § 440.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C-1-13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article

Water development revenue bonds and notes and water development revenue refunding bonds issued under authority of this article and any coupons in connection therewith are not a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders or owners thereof have no right to have taxes levied by the Legislature or taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon, but such bonds and notes are payable solely from the revenues and funds pledged for their payment as authorized by this article unless the notes are issued in anticipation of the issuance of bonds or the bonds are refunded by refunding bonds issued under authority of this article, which bonds or refunding bonds are payable solely from revenues and funds pledged for their payment as authorized by this article. All such bonds and notes shall contain on the face thereof a statement to the effect that the bonds or notes, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

All expenses incurred in carrying out the provisions of this article are payable solely from funds provided under authority of this article. This article does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any county, municipality or political subdivision thereof.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐166.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States § 448.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C-1-14. Use of funds by authority; restrictions thereon

All moneys, properties and assets acquired by the authority, whether as proceeds from the sale of water development revenue bonds or as revenues or otherwise, shall be held by it in trust for the purposes of carrying out its powers and duties, and shall be used and reused in accordance with the purposes and

provisions of this article. Such moneys shall at no time be commingled with other public funds. Such moneys, except as otherwise provided in any resolution authorizing the issuance of water development revenue bonds or in any trust agreement securing the same, or except when invested pursuant to section fifteen of this article, shall be kept in appropriate depositories and secured as provided and required by law. The resolution authorizing the issuance of such bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any banking institution or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to the conditions this article and such resolution or trust agreement provide.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐119.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 324 to 348, 351, 353 to 357, 362 to 363, 368.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–15. Investment of funds by authority

The authority is hereby authorized and empowered to invest any funds not needed for immediate disbursement in any of the following securities:

(1) Direct obligations of or obligations guaranteed by the United States of America;

(2) 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; the Federal National Mortgage Association or the Government National Mortgage Association;

(3) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes issued by public agencies or municipalities or preliminary loan notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(4) Certificates of deposit secured by obligations of the United States of America;

(5) Direct obligations of or obligations guaranteed by the state of West Virginia;

(6) Direct and general obligations of any other state within the territorial United States, to the payment of the principal of and interest on which the full faith and credit of such state is pledged: Provided, That at the time of their

purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond-rating agency; and

(7) Any fixed interest bond, note or debenture of any corporations organized and operating within the United States: Provided, That such corporation shall have a minimum net worth of fifteen million dollars and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: Provided, however, That (i) such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements, and (ii) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years, and (iii) the bonds, notes or debentures of such corporation to be purchased are rated "AA" or the equivalent thereof or better than "AA" or the equivalent thereof at least two or more nationally recognized rating services such as Standard and Poor's, Dun & Bradstreet or Moody's.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐124.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 374 to 376.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–16. Rentals and other revenues from water development projects owned by the authority; contracts and leases of the authority; cooperation of other governmental agencies; bonds of such agencies

This section applies to any water development project or projects which are owned, in whole or in part, by the authority. The authority may charge, alter and collect rentals or other charges for the use or services of any water development project, and contract in the manner provided by this section with one or more persons, one or more governmental agencies, or any combination thereof, desiring the use or services thereof, and fix the terms, conditions, rentals or other charges for such use or services. Such rentals or other charges are not subject to supervision or regulation by any other authority, department, commission, board, bureau or agency of the state, and such contract may provide for acquisition by such person or governmental agency of all or any part of such water development project for such consideration payable over the period of the contract or otherwise as the authority in its sole discretion determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of water development revenue bonds or notes or water development revenue refunding bonds of the authority or any trust agreement securing the same. Any governmental agency which has power to construct, operate and maintain public water or wastewater facilities may enter into a contract or lease with the authority whereby the use or services of any water development project of the authority will be made available to such governmental agency and pay for such use or services such rentals or other charges as may be agreed to by such governmental agency and the authority.

Any governmental agency or agencies or combination thereof may cooperate with the authority in the acquisition or construction of a water development project and shall enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties, including, without limitation, the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of water development revenue bonds by the authority. Any governmental agency may provide such contribution as is required under such agreements by the appropriation of money or, if authorized by a favorable vote of the electors to issue bonds or notes or levy taxes or assessments and issue notes or bonds in anticipation of the collection thereof, by the issuance of bonds or notes or by the levying of taxes or assessments and the issuance of bonds or notes in anticipation of the collection thereof, and by the payment of such appropriated money or the proceeds of such bonds or notes to the authority pursuant to such agreements.

Any governmental agency, pursuant to a favorable vote of the electors in an election held for the purpose of issuing bonds to provide funds to acquire, construct or equip, or provide real estate and interests in real estate for a public water or wastewater facility, whether or not the governmental agency at the time of such an election had the authority to pay the proceeds from such bonds or notes issued in anticipation thereof to the authority as provided in this section, may issue such bonds or notes in anticipation of the issuance thereof and pay the proceeds thereof to the authority in accordance with an agreement between such governmental agency and the authority: Provided, That the legislative authority of the governmental agency finds and determines that the water development project to be acquired or constructed by the authority in cooperation with such governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of such bonds or notes.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Waters and Water Courses ⇐183.5, 203.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581, 666 to 732.

§ 22C–1–17. Maintenance, operation and repair of projects; reports by authority to governor and Legislature

Each water development project, when constructed and placed in operation, shall be maintained and kept in good condition and repair by the authority or if owned by a governmental agency, by such governmental agency, or the authority or such governmental agency shall cause the same to be maintained and kept

in good condition and repair. Each such project owned by the authority shall be operated by such operating employees as the authority employs or pursuant to a contract or lease with a governmental agency or person. All public or private property damaged or destroyed in carrying out the provisions of this article and in the exercise of the powers granted hereunder with regard to any project shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided in accordance with the provisions of this article.

As soon as possible after the close of each fiscal year, the authority shall make an annual report of its activities for the preceding fiscal year to the governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the preceding fiscal year. The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of its projects.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–18. Water development bonds lawful investments

The provisions of sections nine and ten, article six, chapter twelve of this code to the contrary notwithstanding, all water development revenue bonds issued pursuant to this article are lawful investments for the West Virginia state board of investments and are also lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, insurance companies, including domestic for life and domestic not for life insurance companies.

Acts 1994, c. 61.

Acts 1999, c. 147, created the West Virginia investment management board, which absorbed the powers and duties of the board of investments. See § 12–6–3.

Library References

States ⇐157.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 360, 405.

C.J.S. States § 441.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–19. Purchase and cancellation of notes or bonds

The authority, subject to such agreements with noteholders or bondholders as may then exist, has the power, out of any funds available therefor, to purchase notes or bonds of the authority.

If the notes or bonds are then redeemable, the price of such purchase shall not exceed the redemption price then applicable plus accrued interest to the

next interest payment date thereon. If the notes or bonds are not then redeemable, the price of such purchase shall not exceed the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date. Upon such purchase such notes or bonds shall be canceled.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐147.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 437, 443 to 445.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C-1-20. Refunding bonds

Any bonds issued hereunder and at any time outstanding may at any time and from time to time be refunded by the authority by the issuance of its refunding bonds in such amount as it may deem necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon; to provide additional funds for the purposes of the authority; and any premiums and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded have matured or thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the redemption of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby: Provided, That the holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this article are payable from the revenues out of which the bonds to be refunded thereby were payable, or from other moneys or the principal of and interest on or other investment yield from, investments or proceeds of bonds or other applicable funds and moneys, including investments of proceeds of any refunding bonds, and are subject to the provisions contained in section nine of this article and shall be secured in accordance with the provisions of sections nine and ten of this article.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
States ⇐152.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 449 to 450.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C-1-21. Exemption from taxation

The exercise of the powers granted to the authority by this article will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial

opportunities and is a public purpose. As the operation and maintenance of water development projects are essential governmental functions, the authority is not required to pay any taxes or assessments upon any water development project or upon any property acquired or used by the authority or upon the income therefrom. Such bonds and notes and all interest and income thereon are exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except inheritance taxes.

Acts 1994, c. 61.

Library References

Taxation ⇐2173, 2276, 2315, 2316, 2330.
Westlaw Topic No. 371.

§ 22C–1–22. Acquisition of property by authority—Acquisition by purchase; governmental agencies authorized to convey, etc., property

The authority may acquire by purchase, whenever it deems such purchase expedient, any land, property, rights, rights-of-way, franchises, easements and other interests in lands it deems necessary or convenient for the construction and operation of any water development project upon such terms and at such prices it considers reasonable and can be agreed upon between the authority and the owner thereof, and take title thereto in the name of the state.

All governmental agencies, notwithstanding any contrary provision of law, may lease, lend, grant or convey to the authority, at its request, upon such terms as the proper authorities of such governmental agencies deem reasonable and fair and without the necessity for an advertisement, auction, order of court or other action or formality, other than the regular and formal action of the governmental agency concerned, any real property or interests therein, including improvements thereto or personal property which is necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property or interests therein, including improvements thereto or personal property already devoted to public use.

Acts 1994, c. 61.

Library References

Eminent Domain ⇐27 to 32.
Environmental Law ⇐216.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 148, 149E, 405.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–23. Same—Acquisition under subdivision (10), section six of this article; property of public utilities and common carriers; relocation, restoration, etc., of highways and public utility facilities

The authority may acquire, pursuant to subdivision (10), section six of this article, any land, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any water development project.

This section does not authorize the authority to take or disturb property or facilities belonging to any public utility or to a common carrier, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the authority.

When the authority finds it necessary to change the location of any portion of any public road, state highway, railroad or public utility facility in connection with the construction of a water development project, it shall cause the same to be reconstructed at such location as the unit or division of government having jurisdiction over such road, highway, railroad or public utility facility deems most favorable. Such construction shall be of substantially the same type and in as good condition as the original road, highway, railroad or public utility facility. The cost of such reconstruction, relocation or removal and any damage incurred in changing the location of any such road, highway, railroad or public utility facility shall be paid by the authority as a part of the cost of such water development project.

When the authority finds it necessary that any public highway or portion thereof be vacated by reason of the acquisition or construction of a water development project, the authority shall request the commissioner of the division of highways, in writing, to vacate such highway or portion thereof if the highway or portion thereof to be vacated is part of the state road system, or, if the highway or portion thereof to be vacated is under the jurisdiction of a county or a municipality, the authority shall request the governing body of such county or municipality to vacate such public road or portion thereof. The authority shall pay to the commissioner of the division of highways or to the county or municipality, as the case may be, as part of the cost of such water development project, any amounts required to be deposited with any court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

The authority may make reasonable rules for the installation, construction, maintenance, repair, renewal, relocation and removal of railroad or public utility facilities in, on, over or under any water development project. Whenever the authority determines that it is necessary that any such facilities installed or constructed in, on, over or under property of the authority pursuant to such rules be relocated, the railroad or public utility owning or operating such facilities shall relocate or remove them in accordance with the order of the authority. The cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location, the cost of any lands or any rights or interests in lands and the cost of any other rights acquired to accomplish such relocation or removal, may be paid by the authority as a part of the cost of such water development project. In case of any such relocation or removal of facilities, the railroad or public utility owning or operating them, and its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances in the new location in, on, over or under the property

of the authority for as long a period and upon the same terms as it had the right to maintain and operate such facilities in their former location.

Acts 1994, c. 61.

Library References

Eminent Domain ⇐27 to 32.
Environmental Law ⇐216.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 148, 149E, 405.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–24. Financial interest in contracts prohibited; penalty

No officer, member or employee of the authority shall be financially interested, directly or indirectly, in any contract of any person with the authority, or in the sale of any property, real or personal, to or from the authority. This section does not apply to contracts or purchases of property, real or personal, between the authority and any governmental agency. If any officer, member or employee of the authority has such financial interest in a contract or sale of property prohibited hereby, he or she is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail not more than one year, or both fined and imprisoned.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 405.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. Waters §§ 483, 543 to 581.

§ 22C–1–25. Meetings and records of authority to be kept public

All meetings of the authority shall be open to the public and the records of the authority shall be open to public inspection at all reasonable times, except as otherwise provided in this section. All final actions of the authority shall be journalized and such journal shall also be open to the inspection of the public at all reasonable times. Any records or information relating to secret processes or secret methods of manufacture or production which may be obtained by the authority or other persons acting under authority of this article are confidential and shall not be disclosed.

Acts 1994, c. 61.

Library References

Environmental Law ⇐139.
Westlaw Topic No. 149E.
C.J.S. Health and Environment §§ 130, 173.

§ 22C–1–26. Liberal construction of article

The provisions of this article are hereby declared to be remedial and shall be liberally construed to effectuate its purposes and intents.

Acts 1994, c. 61.

Library References

Environmental Law ⇐167.
Waters and Water Courses ⇐182.
Westlaw Topic Nos. 149E, 405.

C.J.S. Health and Environment § 172.
C.J.S. Waters §§ 483, 505.

§ 22C–1–27. Authorized limit on borrowing

The aggregate principal amount of bonds and notes issued by the authority may not exceed five hundred million dollars outstanding at any one time: Provided, That before the authority issues bonds and notes in excess of four hundred million dollars the Legislature must pass a resolution authorizing this action: Provided, however, That in computing the total amount of bonds and notes which may at any one time be outstanding, the principal amount of any outstanding bonds or notes refunded or to be refunded either by application of the proceeds of the sale of any refunding bonds or notes of the authority or by exchange for any refunding bonds or notes, shall be excluded.

Acts 1994, c. 61; Acts 1995, c. 252, eff. 90 days after March 3, 1995; Acts 2000, c. 278, eff. March 11, 2000.

Library References

Environmental Law ⇐216.
States ⇐115.
Waters and Water Courses ⇐183.5.
Westlaw Topic Nos. 149E, 360, 405.

C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 358 to 371.
C.J.S. Waters §§ 483, 543 to 581.

ARTICLE 2

WATER POLLUTION CONTROL REVOLVING FUND ACT

Section

22C-2-1. Definitions.
22C-2-2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency.
22C-2-3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund.
22C-2-4. Annual audit.
22C-2-5. Collection of money due to the fund.
22C-2-6. State construction grants program established; special fund.
22C-2-7. Environmental review of funded projects.
22C-2-8. Conflicting provisions.

§ 22C-2-1. Definitions

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the water development authority provided for in section four, article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service, and the funding of accounts and reserves which the authority may require; and

(6) Other items that the division of environmental protection determines to be reasonable and necessary.

(c) "Fund" means the state water pollution control revolving fund provided for in this article as it may be expanded or modified from time to time pursuant

to the clean water act, as amended, the federal safe drinking water act, as amended or by the executive order of the governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the division of environmental protection or the agency designated by an order of the governor as having the primary responsibility for administering the fund pursuant to the federal clean water act, as amended, and the federal safe drinking water act, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution or political subdivision in West Virginia.

(f) "Project" means any public water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

(5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and

(6) Other projects allowable under federal law.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

United States Code Annotated

Water Pollution Prevention and Control,
Generally, see 33 U.S.C.A. § 1251 et seq.
Effluent limitations, see 33 U.S.C.A. § 1311 et seq.
Water Pollution, Waste Treatment Management, grants, see 33 U.S.C.A. § 1281 et seq.

§ 22C–2–2. Designation of division of environmental protection as state instrumentality for purposes of capitalization agreements with the United States environmental protection agency

The division of environmental protection shall act as the instrumentality that is empowered to enter into capitalization agreements with the United States environmental protection agency, to accept capitalization grant awards made under the federal clean water act, as amended, the safe drinking water act, as amended, and other federal laws and to otherwise manage the fund provided for in this article in accordance with the requirements of said federal laws.

Acts 1994, c. 61.

Library References

Environmental Law ⇐216.
Westlaw Topic No. 149E.
C.J.S. Health and Environment §§ 130, 172.

§ 22C–2–3. West Virginia water pollution control revolving fund; disbursement of fund moneys; administration of the fund

(a) Under the direction of the division of environmental protection, the water development authority shall establish, administer and manage a permanent and perpetual fund, to be known as the "West Virginia Water Pollution Control Revolving Fund." The fund shall be comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state water pollution control revolving fund, all receipts from loans made from the fund to local entities, all income from the investment of moneys held in the fund, and all other sums designated for deposits to the fund from any source, public or private. Moneys in the fund shall be used solely to make loans to local entities to finance or refinance the costs of a project: Provided, That moneys in the fund shall be utilized to defray the costs incurred by the authority and the division of environmental protection in administering the provisions of this article: Provided, however, That moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by federal law.

(b) The director of the division of environmental protection, in consultation with the authority, shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code, to:

(1) Govern the disbursement of moneys from the fund; and

(2) Establish a state water pollution control revolving fund program to direct the distribution of grants or loans from the fund to particular local entities and establish the interest rates and repayment terms of the loans.

(c) In order to carry out the administration and management of the fund, the authority is authorized to employ officers, employees, agents, advisers and consultants, including attorneys, financial advisers, engineers, other technical advisers and public accountants and, notwithstanding any provisions of this code to the contrary, to determine their duties and compensation without the approval of any other agency or instrumentality.

(d) The authority shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to govern the pledge of loans to secure bonds of the authority.

(e) All moneys belonging to the fund shall be kept in appropriate depositories and secured in conformance with this code. Disbursements from the fund shall be authorized for payment by the director of the authority or the director's designee. Any depository or officer of the depository to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply them solely for the purposes for which the moneys are provided under this article. Moneys in the fund shall not be commingled with other money of the authority. If not needed for immediate use or disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or securities which are considered lawful investments for public funds under this code.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

Administrative Code References

Program rules, see W. Va. Code St. R. § 47–31–1 et seq.

Library References

Environmental Law ⇐179, 180, 216.
States ⇐127.
Westlaw Topic Nos. 149E, 360.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 386 to 387.

§ 22C–2–4. Annual audit

The authority shall cause an audit of its books and accounts to be made at least once each fiscal year by certified public accountants, and the cost thereof may be defrayed as a part of the cost of construction of a project or as an administrative expense under the provisions of subsection (a), section three of this article.

Acts 1994, c. 61.

Library References

Environmental Law ⇐179, 180, 216.
States ⇐121.
Westlaw Topic Nos. 149E, 360.
C.J.S. Health and Environment §§ 130, 172.
C.J.S. States §§ 322 to 323, 372.

§ 22C–2–5. Collection of money due to the fund

In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local entity, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(a) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article, and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(b) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article.

(c) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all of the terms and conditions of the loan agreement between the state and that local entity including:

(1) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(2) The enforcement and collection of service charges; and

(3) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision.

The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

Library References

Environmental Law ⇐221.
Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 130, 150, 172.

§ 22C–2–6. State construction grants program established; special fund

(a) The director of the division of environmental protection shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to establish a state construction grants program that is designed to complement and supplement the state water pollution control revolving fund program established pursuant to subsection (b), section three of this article.

(b) The special fund designated "The West Virginia Construction Grants Fund" established in the state treasury is continued. The special fund shall be comprised of moneys appropriated to said fund by the Legislature, assessments on existing wastewater treatment facilities, and all other sums designated for deposit to the special fund from any source, public or private: Provided, That such assessments shall be made and collected in accordance with fee schedules to be established by legislative rules promulgated by the director of the division of environmental protection, in accordance with chapter twenty-nine-a of this code. Moneys in the special fund shall be used solely for the state construction grants program established under subsection (a) of this section: Provided, however, That moneys in the special fund may be utilized to defray the costs incurred by the division of environmental protection in administering the provisions of this section.

Acts 1994, c. 61.

Administrative Code References

Construction grants program rules, see W. Va. Code St. R. § 47–33–1 et seq.

Library References

Environmental Law ⇐180, 217.
States ⇐127.
Westlaw Topic Nos. 149E, 360.

C.J.S. Health and Environment §§ 130, 133, 172.
C.J.S. States §§ 386 to 387.

§ 22C–2–7. Environmental review of funded projects

(a) The division of environmental protection shall conduct an environmental review on each project funded under this article. The director of the division of environmental protection shall promulgate legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the environmental review of funded projects: Provided, That the rules shall be

consistent with the regulations promulgated by the United States environmental protection agency pursuant to the federal clean water act, as amended.

(b) The director of the division of environmental protection is authorized to direct a local entity, or its agent, to implement all measures that, in the judgment of the director, are necessary in order to mitigate or prevent adverse impacts to the public health, safety or welfare or to the environment that may result from a project funded under this article. The director is further authorized to require all projects to comply with all other appropriate federal laws and regulations that are required of the projects under the federal clean water act, as amended.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996.

Library References

Environmental Law ⇐179, 180, 574, 595(3). Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 105 to 106, 111, 113 to 114, 116, 125, 172.

§ 22C–2–8. Conflicting provisions

The provisions of this article shall be liberally construed to the end that its beneficial purposes may be effectuated. Insofar as the provisions of this article are inconsistent with the provisions of any other general, special or local law, the provisions of this article are controlling.

Acts 1994, c. 61.

Library References

Environmental Law ⇐167, 170, 575. Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 106, 111, 172.

ARTICLE 3

SOLID WASTE MANAGEMENT BOARD

Section

22C–3–1. Short title.
22C–3–2. Legislative findings; declaration of policy and responsibility; purpose and intent of article.
22C–3–3. Definitions.
22C–3–4. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation and expenses; director of board.
22C–3–5. Board to designate and establish disposal sheds; construction, maintenance, etc., of disposal projects; loan agreements; compliance with federal and state law.
22C–3–6. Powers, duties and responsibilities of board generally.
22C–3–7. Development of state solid waste management plan.
22C–3–8. Power of board to collect service charges and exercise other powers of governmental agencies in event of default; power to require governmental agencies to enforce their rights.
22C–3–9. Development and designation of solid waste disposal sheds by board.
22C–3–10. Board empowered to issue solid waste disposal revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance.
22C–3–11. Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal agent; purposes for use of bond proceeds; application of surplus.
22C–3–12. Legal remedies of bondholders.
22C–3–13. Bonds and notes not debt of state, county, municipality or of any political subdivision; expenses incurred pursuant to article.
22C–3–14. Use of funds, properties, etc., by board; restrictions thereon.
22C–3–15. Audit of funds disbursed by the board and recipients thereof.
22C–3–16. Rentals, fees, service charges and other revenues from solid waste disposal projects; contracts and leases of board; cooperation of other governmental agencies; bonds of such agencies.
22C–3–17. Maintenance, operation and repair of projects; repair of damaged property; reports by board to governor and Legislature.
22C–3–18. Solid waste disposal revenue bonds lawful investments.
22C–3–19. Exemption from taxation.
22C–3–20. Governmental agencies authorized to convey property.
22C–3–21. Financial interest in contracts, projects, etc., prohibited; gratuities prohibited; penalty.
22C–3–22. Conduct of proceedings of board.
22C–3–23. Regulation of solid waste collectors and haulers to continue under public service commission; bringing about their compliance with solid waste disposal shed plan and solid waste disposal projects; giving testimony at commission hearings.
22C–3–24. Cooperation of board and enforcement agencies in collecting and disposing of abandoned household appliances and motor vehicles, etc.
22C–3–25. Liberal construction of article.
22C–3–26. Supersedure over county and regional solid waste authorities.

§ 22C–3–1. Short title

This article shall be known and cited as the "Solid Waste Management Board Act."

Acts 1994, c. 61.

WEST'S
ANNOTATED CODE OF WEST VIRGINIA

CHAPTER 22B

ENVIRONMENTAL BOARDS

ARTICLE 3

ENVIRONMENTAL QUALITY BOARD

§ 22B–3–1. Environmental quality board; composition and organization; appointment, qualifications, terms, vacancies

Administrative Code References

Environmental Quality Board procedural rules, see W. Va. Code St. R. § 46–4–1 et seq.

CHAPTER 22C

ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS AND COMPACTS

Article	Section
2. WATER POLLUTION CONTROL REVOLVING FUND ACT	22C–2–1
4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES	22C–4–10
7. ENVIRONMENTAL RESOURCES	22C–7–2

ARTICLE 2

WATER POLLUTION CONTROL REVOLVING FUND ACT

Section
22C–2–1. Definitions.
22C–2–5. Collection of money due to the fund.

§ 22C–2–1. Definitions

Unless the context in which used clearly requires a different meaning, as used in this article:

(a) "Authority" means the Water Development Authority provided for in section four, article one of this chapter.

(b) "Cost" as applied to any project financed under the provisions of this article means the total of all costs incurred by a local entity that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project including:

(1) Developmental, planning and feasibility studies, surveys, plans and specifications;

(2) Architectural, engineering, financial, legal or other special services;

(3) Acquisition of land and any buildings and improvements on the land or buildings, including the discharge of any obligations of the sellers of the land, buildings or improvements;

(4) Site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment;

(5) The reasonable costs of financing incurred by the local entity in the course of the development of the project, carrying charges incurred before placing the project in service, interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in connection with placing the project in service and the funding of accounts and reserves which the authority may require; and

(6) Other items that the Department of Environmental Protection determines to be reasonable and necessary.

(c) "Fund" means the State Water Pollution Control Revolving Fund provided for in this article as it may be expanded or modified, from time to time, pursuant to the Clean Water Act, 33 U.S.C. 1251, *et seq.*, as amended, the Federal Safe Drinking Water Act 42 U.S.C. 300f through 300j–26, inclusive, as amended, or by the executive order of the Governor issued to comply with federal laws relating to the acts.

(d) "Instrumentality" means the Department of Environmental Protection or the agency designated by an order of the Governor as having the primary responsibility for administering the fund pursuant to the Clean Water Act, 33 U.S.C. 1251, *et seq.*, as amended, and the Federal Safe Drinking Water Act 42 U.S.C. 300f through 300j–26, inclusive, as amended, or other federal laws.

(e) "Local entity" means any county, city, town, municipal corporation, authority, district, public service district, commission, banking institution, political subdivision, regional governmental authority, state government agency, interstate agency or not-for-profit association or corporation in West Virginia.

(f) "Project" means any water or wastewater treatment facility located or to be located in or outside this state by a local entity and includes:

(1) Sewage and wastewater collection, treatment and disposal facilities;

(2) Public water transportation, treatment and distribution facilities;

(3) Drainage facilities and projects;

(4) Administrative, maintenance, storage and laboratory facilities related to the facilities delineated in subdivisions (1), (2) and (3) of this subsection;

(5) Interests in land related to the facilities delineated in subdivisions (1), (2), (3) and (4) of this subsection; and

(6) Other projects allowable under federal law.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996; Acts 2007, c. 132, eff. June 8, 2007.

§ 22C–2–5. Collection of money due to the fund

(a) In order to ensure the timely payment of all sums due and owing to the fund under a revolving fund loan agreement between the state and a local entity, and notwithstanding any provisions of this code to the contrary, the authority has and may, at its option, exercise the following rights and remedies in the event of any default by a local entity under a loan agreement:

(1) The authority may directly impose, in its own name and for its own benefit, service charges upon all users of a project funded by a loan distributed to a local entity pursuant to this article and may proceed directly to enforce and collect the service charges, together with all necessary costs of the enforcement and collection.

(2) The authority may exercise, in its own name or in the name of and as the agent for a particular local entity, all of the rights, powers and remedies of the local entity with respect to the project or which may be conferred upon the local entity by statute, rule, regulation or

judicial decision, including all rights and remedies with respect to users of the project funded by the loan distributed to that local entity pursuant to this article;

(3) The authority may, by civil action, mandamus or other judicial or administrative proceeding, compel performance by a local entity of all of the terms and conditions of the loan agreement between the state and that local entity including:

(A) The adjustment of service charges as required to repay the loan or otherwise satisfy the terms of the loan agreement;

(B) The enforcement and collection of service charges; and

(b) The enforcement by the local entity of all rights and remedies conferred by statute, rule, regulation or judicial decision. The rights and remedies enumerated in this section are in addition to rights and remedies conferred upon the authority by law or pursuant to the loan agreement.

(c) For loans made for projects defined in subdivision (6), subsection (f), section one of this article, at the direction of the Department of Environmental Protection, the authority shall take a security or other interest in real or personal property with the right to foreclose upon a default to secure loans made from the fund.

Acts 1994, c. 61; Acts 1996, c. 257, eff. 90 days after March 8, 1996; Acts 2007, c. 132, eff. June 8, 2007.

ARTICLE 4

COUNTY AND REGIONAL SOLID WASTE AUTHORITIES

Section

22C-4-10. Mandatory disposal; proof required; penalty imposed; requiring solid waste management board and the Public Service Commission to file report.

§ 22C-4-10. Mandatory disposal; proof required; penalty imposed; requiring solid waste management board and the Public Service Commission to file report.

(a) Each person occupying a residence or operating a business establishment in this state shall either:

(1) Subscribe to and use a solid waste collection service and pay the fees established therefor; or

(2) Provide proper proof that said person properly disposes of solid waste at least once within every thirty-day period at approved solid waste facilities or in any other lawful manner. The Secretary of the Department of Environmental Protection shall promulgate rules pursuant to chapter twenty-nine-a of this code regarding an approved method or methods of supplying such proper proof. A civil penalty of one hundred fifty dollars may be assessed to the person not receiving solid waste collection services in addition to the unpaid fees for every year that a fee is not paid. Any person who violates the provisions of this section by not lawfully disposing of his or her solid waste or failing to provide proper proof that he or she lawfully disposes of his or her solid waste at least once a month is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than fifty dollars nor more than one thousand dollars or sentenced to perform not less than ten nor more than forty hours of community service, such as picking up litter, or both fined and sentenced to community service.

(b) The Solid Waste Management Board, in consultation and collaboration with the Public Service Commission, shall prepare and submit, no later than the first day of October, one thousand nine hundred ninety-two, a report concerning the feasibility of implementing a mandatory fee for the collection and disposal of solid waste in West Virginia: *Provided*, That such plan shall consider such factors as affordability, impact on open dumping and other relevant matters. The report shall be submitted to the Governor, the President of the Senate and the Speaker of the House of Delegates.