

CHELYAN PUBLIC SERVICE DISTRICT

**Sewerage System Revenue Bonds, Series 1999 A
(West Virginia SRF Extended Bond Purchase Program)**

TRANSCRIPT OF PROCEEDINGS

CLOSING DATE: July 15, 1999

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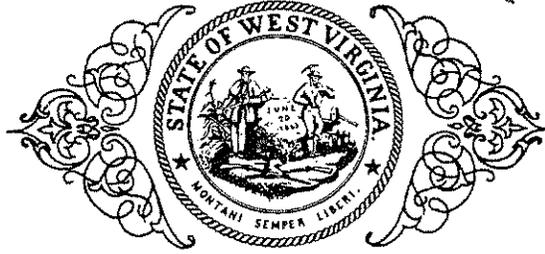
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The closing of the sale of the Chelyan Public Service District Sewerage System Convertible Revenue Bonds, Series 1999 A (West Virginia SRF Extended Bond Purchase Program), to the West Virginia Water Development Authority (the "Authority") will take place at the offices of the West Virginia Water Development Authority, Charleston, West Virginia, at 10:00 a.m. prevailing time on Thursday, July 15, 1999. All transactions will be deemed to have taken place simultaneously on July 15, 1999, and no document shall be deemed to have been delivered unless and until all transactions are complete and all documents are delivered.

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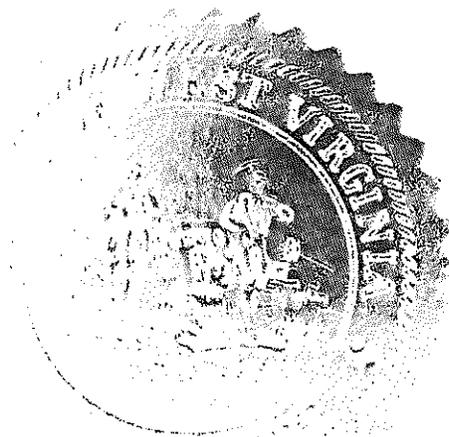
State of West Virginia



Certificate

I, Ken Heckler, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 22C, ARTICLE 2 OF THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.



*Given under my hand and the
Great Seal of the State of
West Virginia on this
Twelfth day of
July 19 99*

Ken Heckler
Secretary of State

ARTICLE 2.

WATER POLLUTION CONTROL REVOLVING FUND ACT.

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Editor's notes. - The Water Pollution Control Revolving Fund Act was formerly entitled in c. 20, art. 51.

§ 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 § 22C-1-4, 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

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. (1994, c. 61.)

§ 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. (1994, c. 61.)

§ 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. (1994, c. 61.)

§ 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. (1994, c. 61.)

§ 22C-1-27. Authorized limit on borrowing.

The aggregate principal amount of bonds and notes issued by the authority shall not exceed three hundred million dollars outstanding at any one time. Provided, 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. (1994, c. 61; 1995, c. 252.)

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. (1994, c. 61; 1996, c. 257.)

§ 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. (1994, c. 61.)

§ 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 [§ 29A-3-1 et seq.], 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 [§ 29A-3-1 et seq.], 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. (1994, c. 61; 1996, c. 257.)

§ 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 [§ 22C-2-3(a)] of this article. (1994, c. 61.)

§ 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,

defray the costs incurred by the division of environmental protection in administering the provisions of this section. (1994, c. 61.)

§ 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 § 29A-3-1 et seq., 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. (1994, c. 61; 1996, c. 257.)

§ 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. (1994, c. 61.)

ARTICLE 3.

SOLID WASTE MANAGEMENT BOARD.

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| <p>Sec. 22C-3-1. 22C-3-2. 22C-3-3. 22C-3-4. 22C-3-5. 22C-3-6.</p> | <p>Short title. Legislative findings; declaration of policy and responsibility; purpose and intent of article. Definitions. Solid waste management board; organization of board; appointment and qualification of board members; their term of office, compensation and expenses; director of board. Board to designate and establish disposal sheds; construction, maintenance, etc. of disposal projects; loan agreements; compliance with federal and state law. Powers, duties and responsibilities of board generally.</p> | <p>Sec. 22C-3-7. 22C-3-8. 22C-3-9. 22C-3-10. 22C-3-11.</p> <p>Development of state solid waste management plan. 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. Development and designation of solid waste disposal sheds by board. Board empowered to issue solid waste disposal revenue bonds, renewal notes and refunding bonds; requirements and manner of such issuance. Establishment of reserve funds, replacement and improvement funds and sinking funds; fiscal</p> |
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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. (1994, c. 61; 1996, c. 257.)

§ 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 (§ 29A-1-1 et seq.) 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 (§ 22C-2-3(b)) 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

State of West Virginia



Certificate

*I, Ken Heckler, Secretary of State of the
State of West Virginia, hereby certify that*

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



*Given under my hand and the
Great Seal of the State of
West Virginia on this
Twelfth _____ day of
July _____ 19 99*

Ken Heckler
Secretary of State

compliance with an order of the director of the division of environmental protection or the environmental quality board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article. (1955, c. 135; 1967, c. 105; 1994, c. 61.)

Applied in *City of Morgantown v. Town of Star City*, 156 W. Va. 529, 195 S.E.2d 166 (1973).

§ 16-13-24. Article to be construed liberally.

This article being necessary for the public health, safety and welfare, it shall be liberally construed to effectuate the purpose thereof. (1933, Ex. Sess., c. 25, § 24.)

Quoted in *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1957).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

- Sec. 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.
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- 16-13A-8. Acquisition and purchase of public service properties; right of emi-

- ment domain; extraterritorial powers.
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- Sec. 16-13A-23. Validation of acts and proceedings of public service boards.
- 16-13A-24. Acceptance of loans, grants or temporary advances.
- 16-13A-25. Borrowing and bond issuance; procedure.

Editor's notes. - Acts 1989, 1st Ex. Sess., c. 3, redesignated the board of health and the department of health as the division of health, within the department of health and human resources. See also, Acts 1997, c. 225.

Textbooks. Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

Constitutionality. The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State

ex rel. *McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Purpose. The purpose of this article is to provide water and sewerage facilities in unincorporated districts. State ex rel. *McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1955).

The title to Acts 1953, c. 147, is sufficient to give a fair and reasonable index to all of the purposes of the act. State ex rel. *McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public utilities. - Public service districts are "public utilities," because they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Atty. Gen. 447 (1969).

Cited in *Beckley County Pub. Serv. Dist. v. Vitro Corp. of Am.*, 152 W. Va. 252, 162 S.E.2d 189 (1968); *State v. Neary*, 179 W. Va. 115, 365 S.E.2d 395 (1987); *McClung Inv., Inc. v. Green Valley Community Pub. Serv. Dist.*, 485 S.E.2d 434 (W. Va. 1997).

§ 16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to ensure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best

interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Authority of county commissions. The county courts (now county commissions) may not supersede the authority delegated by them to public service districts created in accordance with the provisions of this article. (*Op. Atty Gen.*, June 27, 1973.)

Public service district — Authority. . . . A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. (*Canyon Pub. Serv. Dist. v. Tasa*, 192 W. Va. 779, 233 S.E.2d 54 (1976).

Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).
Public service district — Purpose. The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). (*Op. Atty Gen.*, July 8, 1976.)

Cited in State ex rel. APFO v. Gainer. 149 W. Va. 740, 143 S.E.2d 351 (1965); *Shobe v. Latimer*, 162 W. Va. 779, 233 S.E.2d 54 (1976).

§ 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 [§ 16-13A-1b] 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. (1986, c. 81.)

Cited in State ex rel. Water Dev. Auth. v. Northern Wayne County, Pub. Serv. Dist., 195 W. Va. 135, 464 S.E.2d 777 (1985).

§ 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. (1986, c. 81; 1994, c. 61.)

§ 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 or sewerage 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") or (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"). (1986, c. 81.)

§ 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 notes 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 or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of the proposed district except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

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

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three § 59-3-1 et seq., 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 shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the public service commission pursuant to this section and section one-b [§ 16-13A-1b] 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, 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. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125.)

Editor's notes. — Concerning the reference in (a) to the effective date of this section, the language was added by Acts 1986, c. 81, which passed March 8, 1986, and became effective ninety days from passage.

Textbooks. — Instructions for Virginia and West Virginia, Publisher's Editorial Staff (Michie).

Constitutionality. There is no unlawful delegation of legislative power to the county courts (now county commissions) of this State under this section in violation of W. Va. Const., art. V, § 1, and art. VI, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

There is no unconstitutional delegation of judicial functions to the county court (now county commission) made by this section. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Authority of commission and voters. — (1) Only the county commission has the affirmative authority to create, enlarge or reduce a public service district; (2) in the absence of any action by a county commission, the requisite number of qualified voters in the affected geographic area may petition a county commission to create, enlarge or reduce a public service district, and that upon the filing of such petition, a hearing shall be held thereon; (3) the county commission may, in its discretion, refuse to act in an affirmative manner upon such formal petition for creation, enlargement or reduction of such public service district, which action is not subject to protest or public referendum; (4) the county commission may, on its own motion or on the basis of such proper petition, enter an order creating, enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Atty Gen., Nov. 13, 1975.

Authority of court. — A county court (now county commission) has authority to audit sewerage services to the facilities of a public service district which was created for the purpose of furnishing water services, under appropriate

proceedings. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 155 S.E.2d 647 (1973).

Compliance. The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall" in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 155 S.E.2d 647 (1973).

Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Atty Gen., June 12, 1985, No. 9.

A merger or consolidation results in one corporation which, in the case of merger, will be the corporation designated by the commission; as the surviving corporation, and with respect to a consolidation, will be a new corporate entity. Op. Atty Gen., June 12, 1985, No. 9.

Overlapping districts. — Where there is no bond indebtedness outstanding to be paid by a public service district, the county commission creating a public service district may undertake to enlarge or reduce the areas of various overlapping districts or may even consolidate the overlapping districts into one district. Op. Atty Gen., July 8, 1976.

Public corporation. — A public service district is a public corporation and does not come within the constitutional inhibition requiring all corporations to be created by general law. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Referendum. — There is no authority for voters, by written protest or otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Atty Gen. 33 (1966).

"Shall apply with like effect," etc. — Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Atty Gen., Nov. 13, 1975.

Cited in *State v. Neary*, 179 W. Va. 115, 365 S.E.2d 395 (1987).

§ 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, 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 [§ 16-13A-2] 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 [§ 16-13A-3a] 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. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61; 1997, c. 159.)

Effect of amendment of 1997. — The third and fourth paragraphs, added "except in cases of merger or consolidation where the number of board members may equal five" at the end; in the fourth paragraph, inserted "and residing within the state of West Virginia" following "who are persons residing within the district"; in the fifth paragraph, inserted "except in the cases of merger or consolidation where the number of board members may equal five" in the middle of the paragraph; in the seventh paragraph, added the third sentence; in the ninth paragraph, added the third and fourth sentences; and made stylistic changes.

Textbooks. — Instructions for Virginia and West Virginia. Publisher's Editorial Staff (Michie).

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express statute, exempted from the duty of paying registration fees provided by § 17A-10-81, the privilege tax imposed by § 17A-3-41, and the certificate of title charge required by § 17A-3-41. 49 Op. Atty Gen. 131 (1961).

Cited in State v. Neary. 179 W. Va. 115, 365 S.E.2d 395 (1987).

§ 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. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia. Publisher's Editorial Staff (Michie). **Quoted in State v. Neary.** 179 W. Va. 115, 365 S.E.2d 395 (1987).

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

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be 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. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member may receive 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; for districts with six hundred customers or more but fewer than two thousand customers, each board member may receive one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per

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attendance at additional special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum; for districts with two thousand customers or more, each board member may receive 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 for districts with four thousand or more customers, each board member may receive 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. 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. 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 [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided by said section. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located and with the public service commission. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159.)

Effect of amendment of 1997. — The amendment rewrote the second sentence in the fourth sentence, deleted "and regulations" following "as provided for by the rules"; in the seventh sentence, substituted "as provided by" for "as provided by section three, article nine-a, chapter six of this code"; added "and with the public service commission" at the end of the fourth sentence; and made stylistic changes.

§ 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 successor is employed, and his compensation shall be fixed by resolution of the board. Such general manager shall devote all or the

required portion of his 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 shall perform and exercise such other powers and duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his political affiliations and upon the sole basis of his administrative and technical qualifications to manage public service properties and affairs of the district and he 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 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 or sewer service from a municipal water or sewer 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 or sewer system or public service district from which such water or sewer 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. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

§ 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. (1953, c. 147; 1981, c. 124.)

§ 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. 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 [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] 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. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81; 1997, c. 159.)

Effect of amendment of 1997. — The "more than five thousand dollars", and in the amendment, in the second sentence, subst. sixth sentence, made a stylistic change, titled "more than fifteen thousand dollars" for

§ 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 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 or gas facilities for water, sewer 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 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. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

Eminent domain. — The grant of power of eminent domain to public service districts by this section is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

If a facility creates a nuisance this harm is simply an element of just compensation in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Public service commissions, in the absence of specific statutory authority, is not empowered

to determine whether particular property interests acquired or to be acquired by a utility are compensable in an eminent domain action, or to render any type of monetary judgment for such property interests. Affixing the value of the property taken is the function of the trier of fact in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Cited in 45 Op. Att'y Gen. 566 (1953).

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

The board may make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued,

other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall deposit a minimum of fifty dollars with the district to secure the payment of service rates and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided are delinquent and the owner, user and property are liable at law until such time as all such rates and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer service fees and charges: Provided, That any contracts entered into by

a public service district pursuant to this section shall be submitted to the public service commission for approval. Any public service district providing water and sewer service to its customers has the right to terminate water service for delinquency in payment of either water or sewer bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer district is providing water service, and the district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the bureau of public health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine § 16-1-9), article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the bureau of public health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the bureau of public health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near such sewer

facility, and the engineer for the district has certified that such sewer facilities are available to and are adequate to serve such owner, tenant or occupant, and sewage will flow by gravity or be transported by such other methods approved by the bureau of public health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer 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.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section three § 22-11-3), 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 § 22-11-11), article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61.)

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

Abandonment of private systems. — Where a public service district requires a property owner, tenant, or occupant to connect onto its sewer system and to abandon a private sewer system located on the property, such person cannot recover from the public service district the value of the private system on the ground that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art. III, § 9. *Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park*, 182 W. Va. 116, 386 S.E.2d 483 (1989).

Buffer-zone requirements. — Public Service Commission did not err in finding that the district that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art. III, § 9. *Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park*, 182 W. Va. 116, 386 S.E.2d 483 (1989).

Duty to pay. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities

ties from and after the date of receipt of notice (not 30 days after receipt) that such facilities are available. *Rhodes v. Malden Pub. Serv. Dist.*, 171 W. Va. 645, 301 S.E.2d 601 (1983) (repealing this section prior to 1980 and 1981 amendments).

Liens. — The provision that delinquent fixed rates and charges for services rendered by a public service district shall be a lien on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes, does not deprive the owners of their property without due process of law. *State ex rel. McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Public service district liens created and enforceable under this section are subject to the recordation requirements of § 38-10C-1 so that such liens must be docketed to be enforceable against a purchaser of the property for valuable consideration, without notice. *McHugh Inv. Inc. v. Green Valley Community Pub Serv. Dist.*, 485 S.E.2d 434 (W. Va. 1997).

Sewer connection requirements. — The boards of public service districts have no authority to require potential users who live out-

side the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. *Op. Atty. Gen.*, July 8, 1976, W. Va. 135, 464 S.E.2d 777 (1995).

Quoted in *State ex rel. Water Dev. Auth. v. Northern Wayne County Pub. Serv. Dist.*, 195 W. Va. 135, 464 S.E.2d 777 (1995).

§ 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 §§ 16-13A-9 or 16-13A-19) 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. (1982, c. 74.)

§ 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. (1953, c. 147; 1981, c. 124.)

Textbooks. — Instructions for Virginia and West Virginia. Publisher's Editorial Staff (Michie).

§ 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 § 6-9-1 et seq., 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. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia. Publisher's Editorial Staff (Michie).

§ 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. (1953, c. 147; 1981, c. 124.)

§ 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. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1989, c. 174.)

Cross references. — Procedure for borrowing and issuing bonds, § 16-13A-25.

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

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof. (1953, c. 147.)

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or

without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the district and the members of its board and officers in relation to the construction or acquisition of public service properties and the improvement, extension, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that all or any part of the construction work shall be contracted for, constructed and paid for, under the supervision and approval of consulting engineers employed or designated by the board and satisfactory to the original bond purchasers, their successors, assignees or nominees, who may be given the right to require the security given by contractors and by any depository of the proceeds of bonds or revenues of the public service properties or other money pertaining thereto be satisfactory to such purchasers, their successors, assignees or nominees. Such indenture may set forth the rights and remedies of the bondholders and such trustee. (1953, c. 147.)

§ 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. (1953, c. 147.)

§ 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. (1953, c. 147.)

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2.

Mandamus. — Mandamus is a proper remedy to be pursued by the holder of a municipal revenue bond to require a municipal corporation to comply with rate covenants in its revenue bonds. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

Under this section, any holder of the bonds of the Union public service district shall have the right by mandamus to enforce and compel the performance of all the duties required by statute or undertaken by the district in connection with the issuance of bonds by such district. State ex rel. Allstate Ins. Co. v. Union Pub. Serv. Dist., 151 W. Va. 207, 151 S.E.2d 102 (1966).

§ 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. (1953, c. 147.)

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

In any case where a public service district owns a water, sewer 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 or gas system to any municipality or privately-owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer 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 (§ 59-3-1 et seq.), 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 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 or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160.)

Effect of amendment of 1997. ... The "all" preceding "the members of the public service board" in the first paragraph, substituted "six board", and rewrote the proviso, "a majority of not less than sixty percent of"

§ 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. (1953, c. 147.)

Rules of Civil Procedure. ... As to abatement of the procedural distinctions between law and equity, see Rule 2.

In general. ... The provision granting bond

§ 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. (1953, c. 147.)

In general. ... The only purpose for refunding bonds is the refinancing or refinancing of outstanding bond issues of a particular district.

Op. Atty. Gen. ... July 8, 1976.

Combination of bond issues. ... Combination of two outstanding bond issues into one refunding bond issue may well be restricted by

the use of the singular language in this section. *Op. Atty. Gen.* ... July 8, 1976.

Previous issuance of bonds. ... This section is clearly written in language which speaks only of refunding bonds issued by any district which has previously issued bonds. *Op. Atty. Gen.* ... July 8, 1976.

§ 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. (1953, c. 147; 1986, c. 81; 1994, c. 61.)

Constitutionality. ... The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art

X, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Applied in *Rhodes v. Maiden Pub. Serv.*,
163 F.2d 301, 304, 50-501 (1948).

§ 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 [county commission] 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 [January 29, 1960], 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. (1958, c. 14; 1960, c. 19.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 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 [March 13, 1965], by any county court [county commission] 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 con-

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tained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

Editor's notes. — As to the designation of county courts as county commissions, see W. Va. Const., art. IX, § 9.

§ 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 instrument(s) 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 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 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. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

Permissible borrowing. — The borrowing note is permissible borrowing under this section by public service districts of money from counties and municipalities, as evidenced by a

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four [§ 16-13A-13, § 16-13A-20 or § 16-13A-24] of this article, without the prior consent and approval of the public service commission. The public service commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or

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feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, evidence of compliance with chapter five-g [§ 5G-1-1 et seq.] of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to: (1) Experience with the same engineering firm in the past two years requiring engineering services; or (2) completion of a construction project within the past two years requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

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

- (a) The amount of money to be borrowed, or the amount of revenue bonds to be issued; Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;
 - (b) The interest rate and terms of the loan or bonds; Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;
 - (c) The public service properties to be acquired or constructed, and the cost of the public service properties;
 - (d) The anticipated rates which will be charged by the public service district; Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and
 - (e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four of this code, or may withhold such consent and approval for the protection of the public interest.
- In the event of disapproval, the reasons for the disapproval shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159.)

Cross references. -- Class II legal advertisement defined, § 59-3-2.
 Effect of amendment of 1996. -- The occurrence of "district", inserted "public service" amendment, in the second paragraph, substituted "vic" in (d), and made stylistic changes.

Effect of amendment of 1997. The amendment inserted the second and third sentences of the first paragraph.
Certificate. -- Under this section, a public service district must first obtain a certificate of public convenience and necessity before it can acquire or construct public service property. Section v. Public Serv. Comm'n, 188 W. Va. 305, 123 S.E.2d 914 (1992).

Eminent domain. Although construction of a new facility proposed by a utility will often require the taking of private property through eminent domain, in the absence of express statutory language, the public service commission has no duty to review and decide issues that are inherent in the eminent domain proceeding. Section v. Public Serv. Comm'n, 188 W. Va. 305, 123 S.E.2d 914 (1992).

ARTICLE 13B.

COMMUNITY IMPROVEMENT ACT.

- Sec. 16-13B-1. Short title.
- 16-13B-2. Definitions.
- 16-13B-3. Power and authority of counties and municipalities relating to flood relief, wastewater and water projects.
- 16-13B-4. Determination of need and feasibility of creating an assessment district.
- 16-13B-5. Notice to property owners before creation of assessment district and construction of project; form of notice; affidavit of publication.
- 16-13B-6. Petition of property owners for creation of assessment district.
- 16-13B-7. Receipt of petition of property owners; ordinance or order authorizing creation of assessment district and construction of project.
- 16-13B-8. Assessment district to be a public corporation and political subdivision; improvement boards.
- 16-13B-9. Provisions for construction of a project.
- 16-13B-10. Notice to property owners of assessments; hearings; correcting and having assessments; report on project completion; permits.
- 16-13B-11. Construction of projects; assessments; corner lots, etc.
- 16-13B-12. Apportionment and assessment of cost.
- 16-13B-13. Assessment against property of public, charitable, eleemosynary, educational or religious institutions; duty of those in charge to cause assessments to be paid.
- 16-13B-14. Method of paying for cost of project; how assessments may be evinced.
- 16-13B-15. Assessment certificates; assignments; designation of registrar for assessment certificates.
- 16-13B-16. No liability of state, county, municipality and assessment district.
- 16-13B-17. Payment of assessment fees; re-feases.
- 16-13B-18. Liens; recording notice of liens; suit for enforcement; priority.
- 16-13B-19. Reassessment for void, irregular or omitted assessments.
- 16-13B-20. How additional territory may be added to assessment district.
- 16-13B-21. Operation and maintenance of wastewater and water projects; rates and charges therefor.
- 16-13B-22. Liberal construction.

§ 16-13B-1. Short title.

This article shall be known and may be cited as the "West Virginia Community Improvement Act." (1992, c. 150.)

§ 16-13B-2. Definitions.

For purposes of this article:

(a) "Assessment certificate" means a certificate issued by a board pursuant to section fifteen [§ 16-13B-15] of this article to evidence an assessment levied

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AT A REGULAR SESSION OF THE COUNTY COURT OF KANAWHA COUNTY,
WEST VIRGINIA, CONTINUED AND HELD FOR SAID COUNTY AT THE COURTHOUSE
THEREOF ON WEDNESDAY, THE 16TH DAY OF AUGUST,
A. D., 1972.

MEMBERS: HONORABLE HENRY C. SHORES, PRESIDENT, KELLY L.
CASTLEBERRY AND DEWEY E. S. KUHN, GENTLEMEN COMMISSIONERS OF THE
COUNTY.

RE: A RESOLUTION AND ORDER CREATING THE CHELYAN
PUBLIC SERVICE DISTRICT IN KANAWHA COUNTY,
WEST VIRGINIA

WHEREAS, the County Court of Kanawha County, West Virginia
did heretofore, by an order adopted on the 14th day of July, 1972,
fix a date for a public hearing on the creation of the proposed
Chelyan Public Service District, and in and by said order provide
that all persons residing in or having any interest in property
in the proposed Chelyan Public Service District might appear before
the County Court at this meeting and have the opportunity to be
heard for and against the creation of said District; and,

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

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WHEREAS, said hearing was held at the time and place stated in said order on August 16, 1972 at 10 o'clock A. M., E.D.S.T., and the Court considered the question of creating said Public Service District; and

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

NOW, THEREFORE, BE IT, AND IT IS HEREBY RESOLVED and ORDERED by the County Court of Kanawha County, West Virginia, as follows:

Section 1. That said Chelyan Public Service District within Kanawha County, West Virginia, is hereby created, and said District shall have the following boundaries:

"BEGINNING at a point at the junction of Brawleys Hollow and the Great Kanawha River, such point being near a navigation light on the bank of the Great Kanawha River, thence in a southwesterly direction 375 feet, more or less, crossing the Baltimore & Ohio - Chesapeake & Ohio Railroad, and the West Virginia Turnpike, to a point on the northwesterly property line of Parcel No. 43, Map 39, Cabin Creek District, Kanawha County, West Virginia, as shown on a map on file in the Office of the Assessor;

thence following the meandering northwesterly property line of Parcel No. 43, Map 39, in a southwesterly direction, a distance of 2,000 feet, more or less;

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thence following the southwesterly property line of Parcel No. 43, Map 39, in a southeasterly direction, a distance of 2,500 feet, more or less;

thence westerly following the meandering northerly property line of Parcel No. 1, Map 42, a distance of 2,100 feet, more or less;

thence southerly following the westerly property line of Parcel No. 1, Map No. 42, a distance of 2,800 feet, more or less;

thence easterly following the southerly property line of Parcel No. 10, Map No. 42, a distance of 7,300 feet, more or less, to a point on Slaughter Creek;

thence down Slaughter Creek in a northwesterly direction, a distance of 5,500 feet, more or less, to a point on the northerly property line of Parcel No. 1, Map No. 51;

thence easterly following the northerly property line of Parcel No. 1, Map No. 51 for a distance of 4,560 feet, more or less;

thence, southerly following the easterly property line of Parcel No. 1, Map No. 51, a distance of 1,700 feet, more or less, to a point on Kanawha County Route 79;

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thence in an easterly direction, 550 feet, more or less, crossing Kanawha County Route 79, the Baltimore & Ohio - Chesapeake & Ohio Railroad, and the West Virginia Turnpike, to a point common to the property line of the West Virginia Turnpike and the westerly property line of Parcel No. 7, Map No. 43;

thence northerly following the westerly property line of Parcel No. 7, Map No. 43, a distance of 1,930 feet, more or less;

thence northeasterly following the northerly property line of Parcel No. 7, Map No. 43; a distance of 1,030 feet, more or less;

thence northwesterly for a distance of 680 feet, more or less, to a point 500 feet southeasterly of the Baltimore & Ohio - Chesapeake & Ohio Railroad;

thence northeasterly, parallel to and 500 feet distance from the Baltimore & Ohio - Chesapeake & Ohio Railroad, a distance of 5,000 feet, more or less;

thence northwesterly for a distance of 650 feet, more or less, to a point on the bank of the Great Kanawha River, crossing Kanawha County Route 61 and the Baltimore & Ohio - Chesapeake & Ohio Railroad;

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thence westerly following the bank of the Great Kanawha River, a distance of 15,900 feet, more or less, to the point of beginning, a map of which is attached hereto and made a part hereof.

in Cabin Creek Magisterial District of the County of Kanawha, West Virginia, as shown on a map prepared by Allen A. Van Horn, Registered Professional Engineer, No. 5539, dated April 17, 1972.

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

Section 3. That the County Court of Kanawha County, West Virginia, has determined that the territory within Kanawha County, West Virginia, having the herein described boundaries, is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying water or sewerage, or both, within such territory by said Public Service District will be conducive to the preservation of public health, comfort and convenience of such area.

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Adopted by the County Court of Kanawha County, West Virginia on this 16th day of August, 1972.

Teste:

THE COUNTY COURT OF KANAWHA COUNTY

[Handwritten signatures of three individuals]

Approved By:

[Handwritten signature]
County Attorney

ALMA Y KING, do hereby certify
that this is a true copy from the original.
Teste: ALMA Y KING, Clerk
Kanawha County Commission
Date *5/11/98* By *[Handwritten signature]*
Deputy

"RESOLUTION ESTABLISHING RULES BY WHICH THE TIME AND PLACE OF ALL REGULARLY SCHEDULED MEETINGS AND THE TIME, PLACE AND PURPOSE OF ALL SPECIAL MEETINGS ARE TO BE MADE AVAILABLE, IN ADVANCE, TO THE PUBLIC AND NEWS MEDIA AND PROVIDING WHEN THIS RESOLUTION AND SUCH RULES SHALL TAKE EFFECT."

Be it Resolved and Ordered by The Public Service Board of Chelyan Public Service District, Kanawha County, West Virginia:

Section 1. Statutory Mandate for These Rules. The rules established in and by this Resolution are mandated by and promulgated pursuant to Chapter 6, Article 9A, of the Code of West Virginia, 1931, as amended (herein called the "Act"), and other applicable provisions of law.

Section 2. Findings and Determinations. It is hereby found, determined and declared as follows:

(A) Section 3 of the Act requires each governing body, as defined in the Act, to promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news media.

(B) The Public Service Board of Chelyan Public Service District, Kanawha County, West Virginia (herein called the "Board"), is a governing body within the meaning of the Act.

(C) Accordingly, it is hereby ordered that the rules set out in Section 3 hereof be promulgated and established as Rules of Procedure of the Board.

Section 3. Rules. The following are hereby promulgated and established as Rules of Procedure of the Board:

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of this Resolution and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place where notices customarily are posted a notice setting forth the times and places of the Board's regularly scheduled meetings for the ensuing year. Such notice shall be of size and style sufficient to give notice and shall be of quality sufficient to withstand deterioration throughout the year to which it applies. Additional copies of the notice shall be delivered to the Secretary.

Also immediately after adoption of this Resolution and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, distribute to each of the newspapers, television stations, radio stations and other news media listed below a notice identical to that posted.

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 June of each year after the adoption of this Resolution, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers, television stations, radio stations and other news media that customarily cover news of the area served by the Board.

In the event of any modification in the time or place of a regularly scheduled meeting of the Board, notice of such modification shall be given to the public and news media by posting at the place and distributing to the new media in the manner set forth above, not less than three (3) days prior to the date of such regularly scheduled meeting, or, if such regularly scheduled meeting has been rescheduled for an earlier time, prior to the date of such rescheduled meeting, a notice setting forth such modification in the time or place of such regularly scheduled meeting. A copy of such notice shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Notwithstanding the foregoing provisions, notice of the recess or adjournment of a regularly scheduled meeting and of the time and place for the continuation or reconvening thereof publicly given during such regularly scheduled meeting shall be adequate notice to the public and news media of the time and place thereof.

Provided, failure of the Secretary to comply exactly with the posting and distribution requirements hereof shall not invalidate the actions taken at the meeting for which such notice was posted and distributed if the Board shall determine that such posting and distribution were in substantial compliance herewith.

Rule 2. Notice of Special Meeting. Not less than three (3) but not more than eight (8) days prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post on the door of the regular meeting place of the Board, and at such other place, if any, where notices customarily are posted a notice setting forth the 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 three (3) days prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers, television stations, radio stations and other news media listed in Rule No. 1 hereof a notice identical to that posted. Amendments made to such list, as provided for in said Rule

Section 5. Effective Time. This Resolution and the rules promulgated hereby shall take effect immediately upon the adoption hereof.

Introduced at Board Meeting: April 7, 1994

Adopted by Board: April 7, 1994

Chairman

Joyce McPhail

Secretary

Gerry W. Gino

[SEAL]

ABB02DD2

File Book

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 3rd day of September, 1998, the following order was made and entered:

SUBJECT: APPOINTMENT OF SAMUEL LAMONT SHELTON TO THE CHELYAN PUBLIC SERVICE DISTRICT

The following motion was offered by Henry C. Shores
Commissioner _____:

The County Commission of Kanawha County, West Virginia, having been apprised of the resignation of the term of Roy Hanshaw, a member of the Chelyan Public Service District, doth ORDER that Samuel Lamont Shelton, P. O. Box 97, Dawes, West Virginia 25054, be and is hereby appointed to the Chelyan Public Service District to serve for a term expiring August 1, 2000.

It is further ORDERED that the said Samuel Lamont Shelton 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 Henry C. Shores
Commissioner _____, Commissioner, and duly seconded by W. Kent Carper
Commissioner _____, Commissioner, the vote thereon was as follows:

| | |
|-------------------------------|------------|
| Louis H. Bloom, President | _____ |
| Henry C. Shores, Commissioner | <u>Aye</u> |
| W. Kent Carper, Commissioner | <u>Aye</u> |

WHEREUPON, ^{W. Kent Carper} ~~Louis H. Bloom~~, ^{Pro Tempore} 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

[Handwritten Signature]

Henry C. Shores, Commissioner

[Handwritten Signature]

W. Kent Carper, Commissioner

Approved By *[Handwritten Signature]*
County Attorney

1st Book

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 3rd day of September, 1998, the following order was made and entered:

SUBJECT: REAPPOINTMENT OF JERRY W. JESSIE TO THE CHELYAN PUBLIC SERVICE DISTRICT

The following motion was offered by Henry C. Shores Commissioner:

The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of Jerry W. Jessie, a member of the Chelyan Public Service District, doth ORDER that Jerry W. Jessie, 2006-A East DuPont Avenue, Belle, West Virginia 25015, be and is hereby reappointed to the Chelyan Public Service District to serve for a term expiring August 1, 2003.

It is further ORDERED that the said Jerry W. Jessie 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 Henry C. Shores, Commissioner, and duly seconded by W. Kent Carper, Commissioner, the vote thereon was as follows:

| | |
|-------------------------------|------------|
| Louis H. Bloom, President | _____ |
| Henry C. Shores, Commissioner | <u>Aye</u> |
| W. Kent Carper, Commissioner | <u>Aye</u> |

WHEREUPON, ^{W. Kent Carper, Pro Tempore} ~~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

[Signature]

Henry C. Shores, Commissioner

[Signature]

W. Kent Carper, Commissioner

Approved By *[Signature]*
County Attorney

At a Regular Session of the County Commission of Kanawha County, West Virginia, held at the Courthouse thereof, on the 14th day of May, 1998, the following order was made and entered:

SUBJECT: REAPPOINTMENT OF JOYCE MCPHAIL TO THE CHELYAN PUBLIC SERVICE DISTRICT

The following motion was offered by Henry C. Shores
Commissioner :

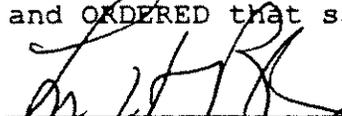
The County Commission of Kanawha County, West Virginia, having been apprised of the expiration of the term of Joyce McPhail, a member of the Chelyan Public Service District, doth ORDER that Joyce McPhail, P. O. Box 548, Chelyan, West Virginia 25041, be and is hereby reappointed to the Chelyan Public Service District to serve for a term expiring August 1, 1999.

It is further ORDERED that the said Joyce McPhail 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.

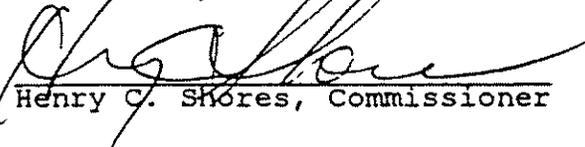
The adoption of the foregoing motion having been moved by Henry C. Shores, Commissioner, and duly seconded by Louis H. Bloom, Commissioner, the vote thereon was as follows:

| | |
|-------------------------------|-------------|
| Louis H. Bloom, President | <u>Aye</u> |
| Henry C. Shores, Commissioner | <u>Aye</u> |
| W. Kent Carper, Commissioner | <u> </u> |

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.

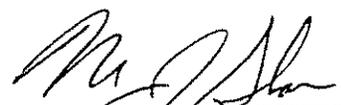


Louis H. Bloom, President



Henry C. Shores, Commissioner

W. Kent Carper, Commissioner

Approved By 

County Attorney

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, Jerry W. Jessie, having been duly reappointed to
the office of Chelyan 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 judgement, so help me, God.

Jerry W. Jessie

Subscribed and sworn to before the undersigned, Clerk of said county, this 14 day
of September, 19 98.

Lynne Slanick
Deputy Clerk

OFFICER'S OATH

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, Samuel Lamont Shelton, having been duly appointed to
the office of Chelyan 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 judgement, so help me, God.

Samuel L. Shelton

Subscribed and sworn to before the undersigned, Clerk of said county, this 10th day
of September, 19 98.

Lynna Slameck
Deputy Clerk

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OFFICER'S OATH

LIBER 227-382

THE STATE OF WEST VIRGINIA, KANAWHA COUNTY, TO WIT:

I, JOYCE MCPHAIL, having been duly REAPPOINTED to

the office of CHELYAN 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.

Joyce McPhail

Subscribed and sworn to before the undersigned, Commissioner of said county, this 14th day of May, 19 98.

[Signature]
County Commissioner

ALMA Y KING, do hereby certify that this is a true copy from the original.
Teste: ALMA Y. KING, Clerk
Kanawha County Commission

Date 6/30/98 By *[Signature]*
Deputy

SRF-BPA-1
(July 8, 1999)

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 DIVISION OF ENVIRONMENTAL PROTECTION, a division of the West Virginia Bureau of Environment (the "DEP"), and the local government designated below (the "Local Government").

CHELYAN PUBLIC SERVICE DISTRICT
(Local Government)

WITNESSETH:

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 20, Article 5I, 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 construct, operate and improve a wastewater treatment project and to finance the cost of constructing or acquiring 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, to evidence the debt being 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 of 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, at 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.

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. 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 resident 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 resident 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 agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Local Government agrees that qualified operating personnel properly certified by the State will be employed before the Project is 50% complete and agrees that it will 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 construction of the Project and for two years following the completion 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 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 the Form 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 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 financing of construction, 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") necessary for the construction of the Project and operation of the System, 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, 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 Subsection 4.1(b)(ii) hereof, and the Authority and DEP shall have received a certificate of the accountants 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 set forth in Exhibit E hereto.

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 loans to finance wastewater treatment projects and that the obligation of the Authority to make any such loan 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 approval of DEP.

3.6 The Local Government shall provide DEP with the appropriate documentation to comply with the special conditions established by federal and state regulations as set forth in Exhibit E hereto at such times as are set forth in Exhibit E.

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 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. The revenues generated from the operation of the System 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 an amount at least 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 the [net/gross] revenues from the System;

(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 established for the payment of debt service on the Local Bonds is funded (whether by Local Bond proceeds, monthly deposits or otherwise) 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 will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or the Regulations, the System may be sold, mortgaged, leased or otherwise disposed of 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 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 any Local Bond owner 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 the Local Government is in compliance with the terms and provisions of the Local Act and this Bond Purchase Agreement and that the Local Government's revenues are adequate to meet its operation and maintenance expenses and debt service 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 for non-construction costs) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim funding 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 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 West Virginia Municipal Bond Commission (the "Commission") its required interest, principal and reserve fund 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 to the Authority by the 5th day of such calendar month;

(xvii) That the Commission shall serve as paying agent for all Local Bonds;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Code, 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 Code, 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, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project; and

(xx) That the Local Government shall, to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission, 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.

The Local Government hereby represents and warrants that the Local Act has been or shall be duly adopted 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, 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 Authority 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 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 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, as set forth in the Local Act and in compliance with the provisions of Subsection 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 minimum sums set forth in the Local Act, 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 so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Bond Purchase Agreement.

5.3 In the event the Local Government defaults in any payment due to the Authority pursuant to Section 4.2 hereof, 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 directly charges upon users 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 local governments 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 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 Project, 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 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 Schedule 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 merges and 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) termination by the Authority and DEP pursuant to Section 6.2 hereof; or

(iii) 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 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 Local Bonds as set forth in (iii) above is not terminated due to such non-funding on any balance on 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 shall not be considered an event of default under the 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.

Chelyan Public Service District

[Proper Name of Local Government]

(SEAL)

By: Joyce McPhail
Its: Chairman

Attest:

Date: July 8, 1999

Samuel L. Shelton
Its Secretary

WEST VIRGINIA DIVISION OF ENVIRONMENTAL PROTECTION

By: Cubana S. Taylor
Its: Chief

Date: 7/14/99

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Loraine B. Meadows
Its: Director

Attest:

Date: July 8, 1999

Loraine B. Meadows
Secretary-Treasurer

[Form of Performance Certificate]
[TO BE PROVIDED BY DEP]

EXHIBIT B

[Form of Monthly Financial Report]
[Name of Local Government]
[Name of Bond Issue]
Fiscal Year - ____
Report Month: _____

| <u>ITEM</u> | <u>CURRENT MONTH</u> | <u>YEAR TO DATE</u> | <u>BUDGET YEAR TO DATE</u> | <u>BUDGET DIFFERENCE</u> |
|---|--------------------------|-------------------------|------------------------------------|------------------------------|
| 1. Gross Revenues Collected | | | | |
| 2. Operation and Maintenance Expense | | | | |
| 3. Other Bond Debt Payments (including Reserve Fund deposits) | | | | |
| 4. SRF Bond Payments (include Reserve Fund deposits) | | | | |
| 5. Renewal and Replacement Fund Deposit | | | | |
| 6. Funds available for capital construction | | | | |

Witnesseth my signature this ____ day of ____, ____.

[Name of Local Government]

By: _____
Authorized Officer

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 that my firm is engineer for the acquisition and construction of _____ to the _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in _____ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the _____ of the Issuer on _____, 19____, effective _____, 19____, and the Bond Purchase Agreement by and among the Issuer, the West Virginia Water Development Authority (the "Authority"), and the West Virginia Division of Environmental Protection ("DEP") dated _____, 19____.

1. The Bonds are being issued for the purpose of _____ (the "Project").

2. 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 _____ and approved by DEP and any change orders approved by the Local Government 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 Local Government 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 A attached hereto as Exhibit A; (iv) the successful bidder(s) 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 form(s) provided to the bidders contain the central operation components of the Project; (vi) the successful bid(s) include prices for every item on such bid form(s); (vii) the uniform bid procedures were followed; (viii) the Local Government 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, the rates and charges for the System as adopted by the Local Government will be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b) (ii) 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 DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this _____ day of _____, 19____.

By _____

West Virginia License No. ____

[SEAL]

EXHIBIT E

SPECIAL CONDITIONS

A. The recipient agrees to include, when issuing statements, press releases, requests for proposals, bid solicitations 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)) - The loan recipient that receives \$300,000 or more in a fiscal year must obtain audits in accordance with the applicable Single Audit Act and OMB Circular or any appropriate successor. Financial statement audits are required once all funds have been received by the loan recipient.

EXHIBIT F

[Monthly Payment Form]

West Virginia Water Development
Authority
1201 Dunbar Avenue
Dunbar, WV 25064

Re: [Name of bond issue]

Dear Sirs:

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

Sinking Fund:

Interest \$_____

Principal \$_____

Total: \$_____

Reserve Fund: \$_____

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
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a bond purchase agreement dated _____, 19____, including all schedules and exhibits attached thereto (the "Bond Purchase Agreement"), between the Local Government and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Local Government, dated _____, 19____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Bond Purchase Agreement. The Local Bonds are in the principal amount of \$ _____, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable _____ 1, _____ 1, _____ 1, and _____ 1 of each year, beginning _____ 1, 19____, at the respective rate or rates and with principal payable in installments on _____ 1 in each of the years, all as follows:

| <u>Year</u> | <u>Installment</u> | <u>Interest Rate</u> |
|-------------|--------------------|----------------------|
|-------------|--------------------|----------------------|

The Local Bonds are issued for the purpose of _____ and 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 enacted by the Local Government on _____ (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 that 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 cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the Local Government without the consent of the Authority.

3. The Local Government is a duly organized and presently existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Bond Purchase Agreement and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Government has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. 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 are valid and legally enforceable special obligations of the Local Government, payable from the net revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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 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 BONDS

| | |
|------------------------------|--------------|
| Principal Amount of Bonds \$ | 2,518,000 |
| Purchase Price of Bonds | \$ 2,518,000 |

Interest on the Bonds shall be zero percent from the date of delivery ~~to and including~~ June 1, 2001. ~~Principal and interest~~ on the Bonds is payable quarterly, commencing June 1, 2001, at a rate of 0 % per annum. Quarterly payments will be made thereafter on each September 1, December 1, March 1 and June 1 as set forth on Schedule Y attached hereto and incorporated herein by reference. As of the date of this Bond Purchase Agreement, it is the Authority's and DEP's understanding that the Local Government has [other obligations outstanding which have a lien as to the source of and security for payment equal to or superior to the lien being granted by the Bonds] or [provide list of outstanding debt]. (See attached schedule) *

The Local Government shall submit its payments monthly to the West Virginia Municipal Bond Commission with instructions that the West Virginia Municipal Bond Commission will make quarterly payments to the West Virginia Water Development Authority at such address as is given to the Bond Commission in writing by the Authority. If the Reserve Fund 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 Bond Commission. The Local Government shall instruct the Bond 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 Bonds will be fully registered in the name of the West Virginia Water Development Authority as to principal ~~and interest~~ and such Bonds shall grant the Authority a first lien on the net revenues of the Local Government's system.

The Local Government may prepay the 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 Bonds which request must be filed at least 60 days prior to the intended date of issuance.

*Sewerage System Revenue Bonds dated September 13, 1979, issued in the aggregate principal amount of \$822,100; Sewerage System Revenue Bonds dated April 22, 1994, issued in the aggregate principal amount of \$1,023,500; Sewerage System Revenue Bonds dated April 22, 1994, issued in the aggregate principal amount of \$175,276; and Sewerage System Revenue Bonds dated June 29, 1995, issued in the aggregate principal amount of \$634,000.

SCHEDULE Y

Chelyan Public Service District, West Virginia
Loan Agreement for \$2,518,000
30 Years, 0% Interest Rate, 0.5% Administrative Fee

DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Total P+I |
|-------------|------------------|---------------|------------------|
| 9/01/1999 | - | - | - |
| 12/01/1999 | - | - | - |
| 3/01/2000 | - | - | - |
| 6/01/2000 | - | - | - |
| 9/01/2000 | - | - | - |
| 12/01/2000 | - | - | - |
| 3/01/2001 | - | - | - |
| 6/01/2001 | 20,984.00 | - | 20,984.00 |
| 9/01/2001 | 20,984.00 | - | 20,984.00 |
| 12/01/2001 | 20,984.00 | - | 20,984.00 |
| 3/01/2002 | 20,984.00 | - | 20,984.00 |
| 6/01/2002 | 20,984.00 | - | 20,984.00 |
| 9/01/2002 | 20,984.00 | - | 20,984.00 |
| 12/01/2002 | 20,984.00 | - | 20,984.00 |
| 3/01/2003 | 20,984.00 | - | 20,984.00 |
| 6/01/2003 | 20,984.00 | - | 20,984.00 |
| 9/01/2003 | 20,984.00 | - | 20,984.00 |
| 12/01/2003 | 20,984.00 | - | 20,984.00 |
| 3/01/2004 | 20,984.00 | - | 20,984.00 |
| 6/01/2004 | 20,984.00 | - | 20,984.00 |
| 9/01/2004 | 20,984.00 | - | 20,984.00 |
| 12/01/2004 | 20,984.00 | - | 20,984.00 |
| 3/01/2005 | 20,984.00 | - | 20,984.00 |
| 6/01/2005 | 20,984.00 | - | 20,984.00 |
| 9/01/2005 | 20,984.00 | - | 20,984.00 |
| 12/01/2005 | 20,984.00 | - | 20,984.00 |
| 3/01/2006 | 20,984.00 | - | 20,984.00 |
| 6/01/2006 | 20,984.00 | - | 20,984.00 |
| 9/01/2006 | 20,984.00 | - | 20,984.00 |
| 12/01/2006 | 20,984.00 | - | 20,984.00 |
| 3/01/2007 | 20,984.00 | - | 20,984.00 |
| 6/01/2007 | 20,984.00 | - | 20,984.00 |
| 9/01/2007 | 20,984.00 | - | 20,984.00 |
| 12/01/2007 | 20,984.00 | - | 20,984.00 |
| 3/01/2008 | 20,984.00 | - | 20,984.00 |
| 6/01/2008 | 20,984.00 | - | 20,984.00 |
| 9/01/2008 | 20,984.00 | - | 20,984.00 |
| 12/01/2008 | 20,984.00 | - | 20,984.00 |
| 3/01/2009 | 20,984.00 | - | 20,984.00 |
| 6/01/2009 | 20,984.00 | - | 20,984.00 |
| 9/01/2009 | 20,984.00 | - | 20,984.00 |
| 12/01/2009 | 20,984.00 | - | 20,984.00 |
| 3/01/2010 | 20,984.00 | - | 20,984.00 |
| 6/01/2010 | 20,984.00 | - | 20,984.00 |
| 9/01/2010 | 20,984.00 | - | 20,984.00 |
| 12/01/2010 | 20,984.00 | - | 20,984.00 |
| 3/01/2011 | 20,984.00 | - | 20,984.00 |

Chelyan Public Service District, West Virginia
Loan Agreement for \$2,518,000
30 Years, 0% Interest Rate, 0.5% Administrative Fee

DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Total P+I |
|-------------|------------------|---------------|------------------|
| 6/01/2011 | 20,983.00 | - | 20,983.00 |
| 9/01/2011 | 20,983.00 | - | 20,983.00 |
| 12/01/2011 | 20,983.00 | - | 20,983.00 |
| 3/01/2012 | 20,983.00 | - | 20,983.00 |
| 6/01/2012 | 20,983.00 | - | 20,983.00 |
| 9/01/2012 | 20,983.00 | - | 20,983.00 |
| 12/01/2012 | 20,983.00 | - | 20,983.00 |
| 3/01/2013 | 20,983.00 | - | 20,983.00 |
| 6/01/2013 | 20,983.00 | - | 20,983.00 |
| 9/01/2013 | 20,983.00 | - | 20,983.00 |
| 12/01/2013 | 20,983.00 | - | 20,983.00 |
| 3/01/2014 | 20,983.00 | - | 20,983.00 |
| 6/01/2014 | 20,983.00 | - | 20,983.00 |
| 9/01/2014 | 20,983.00 | - | 20,983.00 |
| 12/01/2014 | 20,983.00 | - | 20,983.00 |
| 3/01/2015 | 20,983.00 | - | 20,983.00 |
| 6/01/2015 | 20,983.00 | - | 20,983.00 |
| 9/01/2015 | 20,983.00 | - | 20,983.00 |
| 12/01/2015 | 20,983.00 | - | 20,983.00 |
| 3/01/2016 | 20,983.00 | - | 20,983.00 |
| 6/01/2016 | 20,983.00 | - | 20,983.00 |
| 9/01/2016 | 20,983.00 | - | 20,983.00 |
| 12/01/2016 | 20,983.00 | - | 20,983.00 |
| 3/01/2017 | 20,983.00 | - | 20,983.00 |
| 6/01/2017 | 20,983.00 | - | 20,983.00 |
| 9/01/2017 | 20,983.00 | - | 20,983.00 |
| 12/01/2017 | 20,983.00 | - | 20,983.00 |
| 3/01/2018 | 20,983.00 | - | 20,983.00 |
| 6/01/2018 | 20,983.00 | - | 20,983.00 |
| 9/01/2018 | 20,983.00 | - | 20,983.00 |
| 12/01/2018 | 20,983.00 | - | 20,983.00 |
| 3/01/2019 | 20,983.00 | - | 20,983.00 |
| 6/01/2019 | 20,983.00 | - | 20,983.00 |
| 9/01/2019 | 20,983.00 | - | 20,983.00 |
| 12/01/2019 | 20,983.00 | - | 20,983.00 |
| 3/01/2020 | 20,983.00 | - | 20,983.00 |
| 6/01/2020 | 20,983.00 | - | 20,983.00 |
| 9/01/2020 | 20,983.00 | - | 20,983.00 |
| 12/01/2020 | 20,983.00 | - | 20,983.00 |
| 3/01/2021 | 20,983.00 | - | 20,983.00 |
| 6/01/2021 | 20,983.00 | - | 20,983.00 |
| 9/01/2021 | 20,983.00 | - | 20,983.00 |
| 12/01/2021 | 20,983.00 | - | 20,983.00 |
| 3/01/2022 | 20,983.00 | - | 20,983.00 |
| 6/01/2022 | 20,983.00 | - | 20,983.00 |
| 9/01/2022 | 20,983.00 | - | 20,983.00 |
| 12/01/2022 | 20,983.00 | - | 20,983.00 |

Chelyan Public Service District, West Virginia

Loan Agreement for \$2,518,000

30 Years, 0% Interest Rate, 0.5% Administrative Fee

DEBT SERVICE SCHEDULE

| Date | Principal | Coupon | Total P+I |
|--------------|---------------------|---------------|-----------------------|
| 3/01/2023 | 20,983.00 | - | 20,983.00 |
| 6/01/2023 | 20,983.00 | - | 20,983.00 |
| 9/01/2023 | 20,983.00 | - | 20,983.00 |
| 12/01/2023 | 20,983.00 | - | 20,983.00 |
| 3/01/2024 | 20,983.00 | - | 20,983.00 |
| 6/01/2024 | 20,983.00 | - | 20,983.00 |
| 9/01/2024 | 20,983.00 | - | 20,983.00 |
| 12/01/2024 | 20,983.00 | - | 20,983.00 |
| 3/01/2025 | 20,983.00 | - | 20,983.00 |
| 6/01/2025 | 20,983.00 | - | 20,983.00 |
| 9/01/2025 | 20,983.00 | - | 20,983.00 |
| 12/01/2025 | 20,983.00 | - | 20,983.00 |
| 3/01/2026 | 20,983.00 | - | 20,983.00 |
| 6/01/2026 | 20,983.00 | - | 20,983.00 |
| 9/01/2026 | 20,983.00 | - | 20,983.00 |
| 12/01/2026 | 20,983.00 | - | 20,983.00 |
| 3/01/2027 | 20,983.00 | - | 20,983.00 |
| 6/01/2027 | 20,983.00 | - | 20,983.00 |
| 9/01/2027 | 20,983.00 | - | 20,983.00 |
| 12/01/2027 | 20,983.00 | - | 20,983.00 |
| 3/01/2028 | 20,983.00 | - | 20,983.00 |
| 6/01/2028 | 20,983.00 | - | 20,983.00 |
| 9/01/2028 | 20,983.00 | - | 20,983.00 |
| 12/01/2028 | 20,983.00 | - | 20,983.00 |
| 3/01/2029 | 20,983.00 | - | 20,983.00 |
| 6/01/2029 | 20,983.00 | - | 20,983.00 |
| 9/01/2029 | 20,983.00 | - | 20,983.00 |
| 12/01/2029 | 20,983.00 | - | 20,983.00 |
| 3/01/2030 | 20,983.00 | - | 20,983.00 |
| 6/01/2030 | 20,983.00 | - | 20,983.00 |
| 9/01/2030 | 20,983.00 | - | 20,983.00 |
| 12/01/2030 | 20,983.00 | - | 20,983.00 |
| 3/01/2031 | 20,983.00 | - | 20,983.00 |
| Total | 2,518,000.00 | - | 2,518,000.00 * |

*Plus one-half percent administrative fee of \$1,586.85 paid quarterly.
Total administrative fee paid over the life of the loan is \$190,422.

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 9th day of June, 1999.

CASE NO.98-0639-PSD-CN

CHELYAN PUBLIC SERVICE DISTRICT,
a public utility,

Application for a certificate of convenience
and necessity to construct a sewer line
extension to serve certain residents along the
Cabin Creek area of Kanawha County.

COMMISSION ORDER

On December 28, 1998, the Chelyan Public Service District (District), a public utility, filed an application for a certificate of convenience and necessity to construct a sewer line extension to serve certain residents along the Cabin Creek area of Kanawha County, West Virginia. The proposed extension will begin at the terminus of the District's existing system at or near Shelton's Market on Cabin Creek and includes the communities of Dry Branch, Ronda, Sharon, Miami and Dawes, all being within the boundaries of the District. The proposed project will encompass approximately 615 residences, 20 commercial establishments, 1 industrial customer, 1 institutional customer, 1 medical facility and 12 churches. The proposed project will consist of the construction of approximately 70,000 feet of sanitary sewer collection lines, 7 pumping stations and 2 grinder pumping stations.

The District estimated that construction will cost approximately \$5,668,000.00, to be funded as follows: a Small Cities Block Grant in the amount of \$1,250,000.00; a Kanawha County Commission Grant in the amount of \$1,175,000.00; a Governor's Office of Economic and Community Development Grant in the amount of \$1,035,000.00; a West Virginia State Revolving Fund (SRF) Loan in the amount of \$2,118,000.00; and a West Virginia Infrastructure and Jobs Development Council (WVIJDC) Loan in the amount of \$90,000.00.

The proposed project was opened for bids on April 16, 1999. As a result, the bids received came in at approximately \$400,000.00 over the estimated construction cost of \$5,688,000.00.

On June 3, 1999, the District filed a letter from Mike Johnson, P.E., Assistant Chief, Construction Assistance, West Virginia Division of Environmental Protection (WVDEP), to Joyce McPhail, Chairperson of the District. The letter indicated that the WVDEP has instructed the West Virginia Water Development Authority to send the District a standard Loan Agreement for \$2,118,000.00, at an interest rate of 0% for 20 years, with a 1% annual administrative fee. However, according to Mr. Johnson's letter, the Loan Agreement will include the following special condition:

This bond shall be converted to a 30 year debt service amortization based upon an increased amount of \$2,518,000.00 at a 0% interest rate and a 0.5% annual administrative fee after receipt of a certificate from the Secretary of State's Office (approving the State Revolving Fund emergency regulation filing) and the execution of a Bond Purchase Agreement by the Chelyan Public Service District.

Subsequently, on June 7, 1999, the District filed a letter from James D. Williams of the WVIJDC, which indicated that "[i]n the event the District is ready to close the Project financing prior to implementation of the [Clean Water State Revolving Fund] [(CWRP)] extended loan program, the [WVIJDC] has agreed to provide to the District a bond anticipation note of up to \$400,000 with terms and conditions that the bond anticipation note would be canceled immediately upon the issuance of the extended CWRP bond."

According to the District's application, the proposed sewer line extension is a public health necessity. There have been numerous cases of encephalitis within the proposed service area, which has created a significant health hazard to the general public. Additionally, many of the septic systems servicing the individual residences are ineffective and are discharging untreated sewage directly into nearby creeks and streams. Application, p.2.

In a Notice of Filing entered December 28, 1998, the District was ordered to give notice of the filing of its certificate application, by publishing a copy of the Notice once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Kanawha County.

On January 12, 1999, the District filed an Affidavit of Publication, indicating that the required Notice of Filing was duly published in the Charleston Daily Mail on January 4, 1999.

In light of the numerous protests that were filed in response to the Notice of Filing, the Commission scheduled both a public and evidentiary hearing in this matter. See Commission Order, February 23, 1999, and Commission Order Rescheduling Hearing,

March 3, 1999. A Notice of Hearing was duly published in The Charleston Gazette on March 10, 1999, as evidenced by the Affidavit of Publication filed by the District on March 16, 1999.

In a Final Joint Staff Memorandum filed March 12, 1999, Commission Staff opined that the plans and specifications of the proposed sewer line extension do not conflict with the Commission's rules and regulations. Commission Staff further indicated that the District has received the necessary approval from the WVDEP, which Staff accepts as evidence that the proposed project has been designed pursuant to current engineering practice.

Commission Staff recommended that the Commission grant the District's application for a certificate of convenience and necessity for the proposed sewer line extension and approve the proposed financing. Commission Staff further recommended that the Commission approve the District's proposed tariff. Finally, Commission Staff recommended that the District be required to seek Commission approval in the event there are any changes in the scope and/or financing of the project.

A public hearing was conducted on April 13, 1999, at 7:00 p.m., at the Chelyan Elementary School, 15023 MacCorkle Avenue, Chelyan, West Virginia and an evidentiary hearing was conducted on April 14, 1999, at 9:30 a.m., in the Howard M. Cunningham Hearing Room at the Public Service Commission, 201 Brooks Street, Charleston, West Virginia.

At the public hearing conducted on April 13, 1999, numerous protestors appeared and were heard by the Commission concerning the proposed sewer line extension. Additionally, representatives from the District, its engineer, accountant and a representative from the WVDEP, as well as Commission Staff, among others, also appeared and spoke on behalf of the project.

At the evidentiary hearing conducted on April 14, 1999, the Commission heard testimony concerning the plans and specifications of the project. Testimony was also presented with regard to the fact that the particular design selected for the project was, according to the engineers hired by the District, the most cost-effective, as well as the fact that the selected design was the most environmentally-sound design considered by the District and its engineers. Tr. 53-65.

DISCUSSION

The Commission is well aware of the many protests that have been filed with regard to the proposed project described herein. Indeed, the Commission duly considered the comments and objections articulated by the District's residents at the public hearing

conducted on April 13, 1999. However, the protests and objections do not outweigh the significant health risks which presently exist in the proposed service area. The Commission believes that the peril of disease, coupled with the discharge of untreated sewage into nearby creeks and streams, clearly warrant approval of the proposed project and the resulting rate increases.

Accordingly, the Commission will grant the certificate application, as well as the proposed funding, as hereinabove described. The Commission will further approve the proposed rates and charges, attached hereto as "Appendix A."

FINDINGS OF FACT

1. On December 28, 1998, the Chelyan Public Service District (District), a public utility, filed an application for a certificate of convenience and necessity to construct a sewer line extension to serve certain residents along the Cabin Creek area of Kanawha County, West Virginia. The proposed extension will begin at the terminus of the District's existing system at or near Shelton's Market on Cabin Creek and includes the communities of Dry Branch, Ronda, Sharon, Miami and Dawes, all being within the boundaries of the District.

2. The proposed project will encompass approximately 615 residences, 20 commercial establishments, 1 industrial customer, 1 institutional customer, 1 medical facility and 12 churches. The proposed project will consist of the construction of approximately 70,000 feet of sanitary sewer collection lines, 7 pumping stations and 2 grinder pumping stations.

3. The District estimated that construction will cost approximately \$5,668,000.00, to be funded as follows: Small Cities Block Grant in the amount of \$1,250,000.00; a Kanawha County Commission Grant in the amount of \$1,175,000.00; a Governor's Office of Economic and Community Development Grant in the amount of \$1,035,000.00; a West Virginia State Revolving Fund (SRF) Loan in the amount of \$2,118,000.00; and a West Virginia Infrastructure and Jobs Development Council (WVIJDC) Loan in the amount of \$90,000.00.

4. The proposed project was opened for bids on April 16, 1999. As a result, the bids received came in at approximately \$400,000.00 over the estimated construction cost of \$5,688,000.00.

5. On June 3, 1999, the District filed a letter from Mike Johnson, P.E., Assistant Chief, Construction Assistance, West Virginia Division of Environmental Protection (WVDEP), to Joyce McPhail, Chairperson of the District. The letter indicated that the WVDEP has instructed the West Virginia Water Development Authority to send the District

a standard Loan Agreement for \$2,118,000.00, at an interest rate of 0% for 20 years, with a 1% annual administrative fee. However, according to Mr. Johnson's letter, the Loan Agreement will include the following special condition:

This bond shall be converted to a 30 year debt service amortization based upon an increased amount of \$2,518,000.00 at a 0% interest rate and a 0.5% annual administrative fee after receipt of a certificate from the Secretary of State's Office (approving the State Revolving Fund emergency regulation filing) and the execution of a Bond Purchase Agreement by the Chelyan Public Service District.

6. Subsequently, on June 7, 1999, the District filed a letter from James D. Williams of the WVIJDC, which indicated that "[i]n the event the District is ready to close the Project financing prior to implementation of the [Clean Water State Revolving Fund] [(CWSRF)] extended loan program, the [WVIJDC] has agreed to provide to the District a bond anticipation note of up to \$400,000 with terms and conditions that the bond anticipation note would be canceled immediately upon the issuance of the extended CWSRF bond."

7. The proposed sewer line extension is a public health necessity. There have been numerous cases of encephalitis within the proposed service area, which has created a significant health hazard to the general public. Additionally, many of the septic systems servicing the individual residences are ineffective and are discharging untreated sewage directly into nearby creeks and streams. Application, p.2.

8. In a Notice of Filing entered December 28, 1998, the District was ordered to give notice of the filing of its certificate application, by publishing a copy of the Notice once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Kanawha County.

9. On January 12, 1999, the District filed an Affidavit of Publication, indicating that the required Notice of Filing was duly published in the Charleston Daily Mail on January 4, 1999.

10. In light of the numerous protests that were filed in response to the Notice of Filing, the Commission scheduled both a public and evidentiary hearing in this matter. See Commission Order, February 23, 1999, and Commission Order Rescheduling Hearing, March 3, 1999. A Notice of Hearing was duly published in The Charleston Gazette newspaper on March 10, 1999, as evidenced by the Affidavit of Publication filed by the District on March 16, 1999.

11. In a Final Joint Staff Memorandum filed March 12, 1999, Commission Staff opined that the plans and specifications of the proposed sewer line extension do not conflict with the Commission's rules and regulations. Commission Staff further indicated that the District has received the necessary approval from the WVDEP, which Staff accepts as evidence that the proposed project has been designed pursuant to current engineering practice.

12. Commission Staff recommended that the Commission grant the District's application for a certificate of convenience and necessity for the proposed sewer line extension project and approve the proposed financing. Commission Staff further recommended that the Commission approve the District's proposed tariff. Finally, Commission Staff recommended that the District be required to seek Commission approval in the event there are any changes in the scope and/or financing of the project.

13. A public hearing was conducted on April 13, 1999, at 7:00 p.m., at the Chelyan Elementary School, 15023 MacCorkle Avenue, Chelyan, West Virginia and an evidentiary hearing was conducted on April 14, 1999, at 9:30 a.m., in the Howard M. Cunningham Hearing Room at the Commission, 201 Brooks Street, Charleston, West Virginia.

14. At the public hearing conducted on April 13, 1999, numerous protestors appeared and were heard by the Commission concerning the proposed sewer line extension. Additionally, representatives from the District, its engineer, accountant and a representative from the WVDEP, as well as Commission Staff, among others, also appeared and spoke on behalf of the project.

15. At the evidentiary hearing conducted on April 14, 1999, the Commission heard testimony concerning the plans and specifications of the project. Testimony was also presented with regard to the fact that the particular design selected for the project was, according to the engineers hired by the District, the most cost-effective, as well as the fact that the selected design was the most environmentally-sound design considered by the District and its engineers. Tr. 53-65.

CONCLUSIONS OF LAW

1. The Commission will grant the District's application for a certificate of convenience and necessity.
2. The Commission will approve the proposed funding for the sewer line extension project, as hereinabove described.

3. The Commission will approve the District's proposed tariff, attached hereto as "Appendix A."

4. The District may charge the approved rates and charges on and after the date this project is placed into service.

5. In the event there is a change in the scope or financing of the project, the Commission will require the District to seek Commission approval of the changes before proceeding with construction.

ORDER

IT IS THEREFORE ORDERED that the application for a certificate of convenience and necessity for the sewer line extension project, filed by the Chelyan Public Service District on December 28, 1998, is hereby granted.

IT IS FURTHER ORDERED that the proposed funding for the sewer line extension project, as hereinabove described, is hereby approved.

IT IS FURTHER ORDERED that the District's proposed tariff, attached hereto as "Appendix A," is hereby approved for all service rendered on and after the date that this project is placed into service. The District shall file notice of the actual in-service date of the project, as well as a revised tariff setting forth the rates and charges approved herein, within ten (10) days of the date that the project becomes operational.

IT IS FURTHER ORDERED that, in the event there is a change scope of the project and/or financing of the project, the District is required to seek Commission approval of such changes before proceeding with construction.

IT IS FURTHER ORDERED 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 the Commission Staff by hand delivery.

A True Copy, Teste:

ARC
MSB/lfg
990639cb.wpd


Sandra Squire
Executive Secretary

CHELYAN PUBLIC SERVICE DISTRICT
Case No. 98-0638-PSD-CN

Tariff

Applicability

Applicable to all of the District and where extended.

Availability of Service

Available for sanitary sewer service.

Rates (Based on water consumption or metered waste placed in the sewer system).

| | |
|------------------------------------|---------------------------|
| First 2,000 gallons per month | \$ 6.87 per 1,000 gallons |
| Next 1,000 gallons per month | \$ 6.46 per 1,000 gallons |
| Next 17,000 gallons per month | \$ 4.85 per 1,000 gallons |
| Next 80,000 gallons per month | \$ 4.02 per 1,000 gallons |
| All over 100,000 gallons per month | \$ 3.22 per 1,000 gallons |

Minimum Charge

No bill will be rendered for less than \$13.74 per month.

Non-Metered

Where the customer has no water meter or where a substantial portion of the water consumed is not metered, the monthly minimum charge shall be Twenty-Two Dollars and Sixty-Four Cents (\$22.64).

Delayed Payment Penalty

The above tariff is net. On all current usage, billings not paid within twenty (20) days, ten percent (10%) will be added to 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.

Disconnect for Non-Payment

Service shall be disconnected for non-payment of sewer bill as provided by Rule 4.05 of the Rules and Regulations for the Government of Sewer Utilities.

Water Disconnect-Reconnect Fees

Whenever water service has been disconnected for non-payment of sewer bills, a disconnection fee of \$20.00 shall be charged.

Whenever water service which has been previously disconnected or otherwise withheld for non-payment of sewer bills is reconnected, a fee of \$20.00 shall be charged.

Sludge Treatment

\$0.04 per gallon

Tap Fee

\$250.00

Service Connection Charge

(1) Service Connection Inspection Fee -\$25.00

To apply before the completion of the system, completion date to be designated for the various segments of the sewer collector system by the consulting engineer. It is required that this \$25.00 charge be paid before the collector sewer line is laid and covered in order that the contractor can install the sewer lateral to the user's adjacent property line.

(2) Service Connection Fee - \$150.00

To apply where an opening must be made by the District in said District's collector sewer, and service line laid from such opening to owner's property line.

**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 9th day of July, 1999.

CASE NO. 98-0639-PSD-CN
CHELYAN PUBLIC SERVICE DISTRICT,
a public utility,

Application for a certificate of convenience
and necessity to construct a sewer line
extension to serve certain residents along the
Cabin Creek area of Kanawha County.

- **FURTHER COMMISSION ORDER**

By Order issued June 9, 1999, the Public Service Commission granted the Chelyan Public Service District (District) a certificate of convenience and necessity to construct a sewer line extension to serve certain residents along the Cabin Creek areas of Kanawha County, West Virginia (Project), and approved the proposed funding for the Project.

On July 2, 1999, the District's Counsel, on behalf of the District, requested a further order from the Commission specifically approving the sources of funding for this project. Counsel stated that its request is due to the fact that the terms and conditions for the District's loan from the West Virginia Division of Environmental Protection's State Revolving Loan Fund are unique. The District requested expedited treatment of its request in light of its bond closing date scheduled on July 13, 1999. The District's request was docketed by the Commission's Executive Secretary as a petition to reopen this proceeding.

IT IS ORDERED that the District's petition to reopen this proceeding is hereby granted.

IT IS FURTHER ORDERED that Project funding not to exceed \$6,068,000 is hereby approved as follows:

| | |
|--|------------------|
| Small Cities Block Grant | \$1,250,000 |
| Kanawha County Commission Grant | 1,175,000 |
| Governor's Office of Economic and Community Development Grant | <u>1,035,000</u> |
| Sub-total Grants | 3,460,000 |
| WV Clean Water State Revolving Fund | |

| | |
|---|----------------|
| (CWSRF) Loan | 2,118,000 |
| WV Infrastructure and Jobs Development Council (WVIJDC) Loan | 90,000 |
| WVIJDC Bond Anticipation Note | <u>400,000</u> |
| Total Funding | \$6,068,000 |

IT IS FURTHER ORDERED that the following term of the CWSRF Loan Agreement is hereby approved:

"This bond shall be converted to a 30 year debt service amortization based upon an increased amount of \$2,518,000 at a 0% interest rate and a 0.5% administrative fee after receipt of a certificate from the Secretary of State's Office (approving the SRF emergency regulation filing) and the execution of a Bond Purchase Agreement by the Chelyan Public Service District".

IT IS FURTHER ORDERED that the WVIJDC Bond Anticipation Note of \$400,000 will be canceled immediately upon the issuance of the extended CWSRF bond described in the foregoing paragraph.

IT IS FURTHER ORDERED that upon entry hereof, this matter 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.

JML:seg
980639cc svpd

A True Copy, Teste:


Sandra Squire
Executive Secretary

MINUTES OF THE
REGULAR MONTHLY MEETING OF THE
CHELYAN PUBLIC SERVICE DISTRICT
HELD THURSDAY, JANUARY 14, 1999

ATTENDANCE:

COMMISSIONERS:

Joyce McPhail, Chairperson
Samuel L. Shelton, Secretary
Jerry W. Jessie, Treasurer
Mitchell W. Griffith, Chelyan PSD
Joann Rhoades, Chelyan PSD
Ashok Sanghavi, S & S Engineers, Inc.
Wyatt Hanna, Hanna & Bonham, Attorneys
Valerie Workman, Slaughters Creek

MANAGER:

SECRETARY:

GUEST:

The Regular Monthly Meeting called to order by Chairperson McPhail at 3:00 p.m., in the District Office of the Treatment Facility, Rt. 61, Chelyan, WV.

MOTIONS PROPERLY PRESENTED, SECONDED AND PASSED:

Mr. Jessie moved to approve the Commissioners of the Chelyan PSD retain their same positions as follows:

Joyce McPhail-----Chairperson
Samuel L. Shelton-----Secretary
Jerry W. Jessie-----Treasurer

Mr. Shelton presented the second and the motion carried.

Mr. Jessie said I do appreciate you (Mrs. McPhail) taking the lead roll as the Chairperson. I do appreciate the grief you have to put up with and so forth, so on the record I want to say that.

Mrs. McPhail moved to approve the minutes of the Regular Monthly Meeting held December 10, 1998 as read by the Commissioners. Mr. Shelton presented the second and the motion carried.

Mr. Jessie moved to approve the list of expenditures for the month of December 1998 for \$43,546.79. Mr. Shelton presented the second and the motion carried.

NEW BUSINESS AND CORRESPONDENCE:

Mr. Jessie moved to approve paying Invoice Dated January 7, 1999, to Hanna & Bonham, Attorneys, in the amount of \$3,135.00 for Professional Services for the Cabin Creek Sewer Project. This invoice will be paid by the Kanawha County Commission. Mr. Shelton presented the second and the motion carried.

Mr. Jessie moved to approve paying Invoice Dated January 7, 1999, to Hanna & Bonham, Attorneys, in the amount of \$1,395.00 for Professional Services. Mr. Shelton presented the second and the motion carried.

Mr. Jessie moved to approve paying Invoice No. 4310 to S & S Engineers, in the amount of \$366.00 for Professional Services. Mr. Shelton presented the second and the motion carried.

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Mr. Jessie moved to approve to provisionally look into providing sewerage to the Workman Family up Slaughters Creek if it's economically feasible for the District. Mr. Shelton presented the second and the motion carried.

Mr. Jessie moved to approve the discussion relevant to the terms and conditions which were agreed to on the record at the PSC hearing in the Rashid former complaint proceeding on Wednesday, January 6, 1999, as set forth in the hearing transcript. Mr. Shelton presented the second and the motion carried.

Mr. Jessie made a motion to submit the CSX License Agreement for the railroad crossing with CSX for the Cabin Creek Project. Mr. Shelton presented the second and the motion carried.

Mr. Jessie moved to approve we register with Miss Utility Organization. Mr. Shelton presented the second and the motion carried.

Letter was read from Ron Richards of Quincy Coal Company to the Chelyan PSD, concerning our tenants experiencing sewer gas in their homes. This has been a problem since Shrewsbury and Cedar Grove was hooked up on the system. There have been several complaints about this over the past few years and nothing has been done.

Letter was read from attorney Wyatt Hanna to Albert Good of Bibby & Good, concerning a follow-up letter to our recent telephone conversation wherein you requested that your client, the Town of Cedar Grove, be permitted an extension of time until January 1, 1999, in which to begin making payments on the arrearage owed to my client, the Chelyan PSD, as the same is referenced in a Final Order of the PSC dated June 18, 1999, in Case No. 98-0103-PSD-S-PC. Please be advised that the Commissioners of the District are willing to grant your request, subject to the understanding that the Town will start making payments in accordance with the new rates and charges approved in the aforesaid proceeding, effective as of October 15, 1998.

Letter was read from attorney Wyatt Hanna to Paul Carine of CSX, concerning revised copies of Page 2 of Agreement CSX-032199 and the accompanying check list for both agreements. It was my understanding after speaking with my client that the liability provisions set forth in Paragraph X on Page 6 under Agreement CSX-32199 and Page 5 under Paragraph IX with regard to Agreement No. CSX-032200, were to be amended to reflect that the District was required to carry a general commercial liability policy in the amount of \$1,000,000.00. This amount represents the District's current coverage limits under its existing insurance policy. Please forward the amended agreements at your earliest convenience. The District, at the monthly meeting of December 10, 1998, agreed to the one time license fee of \$36,200.00. After processing, a check in this amount will be forwarded to your office.

Letter was read from Pat Lambert of Lambert, Egnatoff & Associates to the Chelyan PSD, concerning a raise in our billing rate for software support from \$75.00 per hour to \$90.00 per hour.

Letter was read from Charles Jones of Campbell, Woods, Bagley, Emerson, McNeer & Herndon to the Chelyan PSD, concerning Edward L. Cordell, II, Chapter 7-Liquidation

Letter was read from Lisa Dooley of the WV Municipal League to the Chelyan PSD, concerning a program to provide below-market rate lease-purchase financing for public agencies in WV. We now believe that tax-exempt bonds can be issued to create a pool of funds from which public agencies can borrow for capital projects and equipment needs during the next three years (1999, 2000, and 2001).

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Letter was read from Lori Payne of Mountain View Coal Company to the Chelyan PSD, concerning applying for a Phase II Vegetative Release on Permit No. S-30-82 issued for 464.16 acres on February 12, 1982. The permit is located in Sherman District of Boone County. Mountain View Coal Company is requesting release of 25% of the reclamation performance bond.

Letter was read from attorney Wyatt Hanna to the Chelyan PSD, with regard to the revision concerning the CSX Agreements which reflects the understanding that the District will be required to carry at least \$1,000,000.00 per occurrence for Bodily Injury liability and Property Damage liability as a result of the Agreement with CSX Corporation. It should be noted that the Agreement requires the District to name CSX as an additional insured.

Letter was read from attorney Wyatt Hanna to the Chelyan PSD, concerning Final Joint Staff Memorandum dated December 21, 1998, wherein the Commission Staff is recommending that the District's pre-filing of an Application for a Certificate of Convenience and Necessity for the proposed Cabin Creek sewer extension project be converted to a formal certificate proceeding.

Letter was read from attorney Wyatt Hanna to the Chelyan PSD, concerning the Rashid Formal Complaint, the hearing is scheduled to begin on Wednesday, January 6, 1999, at 9:30 a.m., at the offices of the PSC located at 201 Brooks Street, Charleston, WV.

Letter was read from attorney Wyatt Hanna to the Charleston Gazette, concerning an Order which I am requesting be published once in either of your newspapers. The publication is as follows: Application for a certificate of convenience and necessity to construct a sewer line extension to serve certain residents along the Cabin Creek area of Kanawha County.

Letter was read from S & S Engineers to Robert Fuller of Terradon Corporation, concerning Kanawha Electric Machine. We have received your recent submittal dated December 15, 1998. Unfortunately, we did not retain your original submission as more than one year has gone by in between. Therefore, please resubmit all the data as required by WVDEP pre-treatment checklist.

Letter was read from attorney Wyatt Hanna to Dave Bostic of Planning & Community Development Office, concerning outstanding invoice dated December 8, 1998, in the amount of \$2,607.50 for professional services provided to the Chelyan PSD with regard to the Cabin Creek sewer project.

Letter was read from attorney Wyatt Hanna to the Chelyan PSD, concerning a letter and Affidavit from Christopher Winton concerning a civil action involving Margaret Hughes and Payne-Gallatin Mining Company. Please review Mr. Winton's letter and the accompanying Affidavit. It is my intention to discuss this matter at the regular meeting on January 14, 1999.

Letter was read from Dan Bickerton of WV-American Water Company to the Chelyan PSD, concerning a legal notice advising customers of the public hearing to take place on January 20, 1999 at 6:30 p.m. in the Kanawha County Courthouse. The notice will run on Saturday, January 9, 1999 in both Charleston Newspapers.

Letter was read from attorney Wyatt Hanna to Sandra Squire of the PSC, concerning the Cabin Creek sewer project. Enclosed for filing, is an Affidavit of Publication indicating that the required Notice of Filing was duly published in the Charleston Daily Mail on January 4, 1999.

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Letter was read from Mike Johnson of DEP to the Chelyan PSD, concerning SRF No. C-544222. You are hereby authorized to advertise for bids. Please refer to our approval letter on the plants and specifications regarding any technical requirements to be met prior to opening bids.

Letter was read from Rosemary Christian of US Department of Agriculture to the Chelyan PSD, concerning your "Parity Request" submitted to the Rural Utilities Service. In accordance with regulations, an environmental review had to be completed prior to authorizing any further processing.

Letter was read from Pat Lambert of Lambert, Egnatoff & Associates to the Chelyan PSD, I certify that all date-related functions of the Utility Billing Software System, Open Systems General Ledger Software and Open Systems Payroll Software will accurately reflect the change from the year 1999 to the year 2000.

Letter was read from attorney Wyatt Hanna to the Chelyan PSD, concerning a Notice from the WVDEP wherein they have authorized the District to advertise bids for the Cabin Creek sewer project. I assume that S & S Engineers will undertake the necessary action to comply with all of the necessary bidding requirements and advise this office of the date and time for the Bid Opening.

GENERAL DISCUSSION:

Valerie Workman of Slaughters Creek was present, she said we are trying to get sewer to my property. I have the map in front of my house. I called the Department of Highways in Chelyan, they said it's not a state route it's an access road. I was told that no one owns the road. I got an easement from the coal company but they said they could take the sewage back anytime.

Mr. Hanna said it's not an easement it's a license agreement, big difference. The Chelyan PSD can put the service in for you, however, if there are any problems Chelyan can condemn at that point, we can get what's called a eminent domain if needed.

Mr. Hanna said I got a call from Mike Albert the attorney from WV-American Water Company, he had the petition that he was going to submit to the PSC ready. I did not get a chance to review any details, I didn't feel real comfortable about that but I did go ahead and sign it, it's similar to the documents that I had reviewed before. I've been informed that there is a public hearing at 6:30 p.m. at the County Commission on January 20, 1999, for everybody to appear and sign the agreement.

Mr. Hanna said concerning the Rashid hearing, the PSC Staff took the position that the notice the District sent to Mr. Rashid did not comply with the tariff provisions, which says you have to be given thirty (30) days in which to correct the problem before we can actually start billing. We actually sent two notices, one in April and one in May 1998. I was going to argue that the first notice was given the history that Mr. Rashid and Mr. Moore had with the District, that they knew what the problem was and knew what it was about. The Judge kind of strong armed us into negotiating with Mr. Rashid, Mr. Moore was not there. The settlement was that Mr. Rashid agrees to hire a contractor within ninety (90) days to correct the system to the District specifications. I suggested if he were going to put in individual water meters that they do that at that time as well. Once the system is in compliance, the District, subject to getting appropriate easement and rights-of-way would assume the system from that point on. Mr. Rashid would pay all the cost of the contractor and everything, the District wouldn't have any cost at all. They may want

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to use S & S Engineers, we agreed to that. If Mr. Rashid doesn't start the construction within ninety (90) days subject to conditions beyond his control, we then have a right to back up to the hearing date and send him another notice and start billing him at that point and he can't protest. Concerning the notice that was sent, in the future it should read the same as the tariff reads, which is as follows:

"When the Chelyan PSD has determined by smoke testing, dye testing, or onsite inspection that surface or storm water is introduced into the sanitary system through customer service lines, it will provide notice to the owner of the property by certified mail or by hand delivery that the owner of the property has thirty (30) days to divert that water from the sanitary sewer. After thirty (30) days, Chelyan PSD will add a surcharge to the customer's bill, where the customer of record is the owner of the property, or will commence billing the owner of the property, where the customer of record is a tenant. Chelyan PSD will continue to charge for surface or storm water until the property owner diverts that water from the sanitary system. The charge for roof drains, surface drains, or foundation drains being connected to the sanitary sewerage system will be based on the volume of excess water as determined by means of direct measurement, calculated measurement from a pump station or vacuum pit or calculated on the basis of the following formula. This charge on the basis of this formula will not be cumulative upon any metered or flat rate sewer service charges."

Mr. Hanna said concerning the Bill Jordan case, he had until the end of the year to comply, I haven't heard anything from him. I'm wondering what the Board's pleasure is?

Mr. Shelton moved to approve that attorney Hanna proceed with the Jordan matter to recoup the \$15,000.00 that was spent by the Chelyan PSD. Mr. Jessie presented the second and the motion carried.

Mr. Hanna asked if anything has been done since the letters were mailed to the people (Kay Thomas, Roy Jeffery and David Fontana) not connected?

Ms. Rhoades said we have heard nothing concerning the connections. However, the letter that you wrote to Mr. Raines concerning his delinquent sewer bill he did pay.

The Board asked manager Griffith to make sure that the connections have not been corrected, if not Mr. Hanna is to proceed to have these customers (Kay Thomas, Roy Jeffery and David Fontana) connected.

Mr. Hanna said there are two matters I have not gotten done, one is the Parsons waiver concerning the Cabin Creek sewer project, and the employment contract. I'll try to get to those next week.

Mr. Hanna said concerning the sewer project, we got the notice to convert and the notice of filing. There should be a letter from me where you had gotten the Affidavit of Publication, the next thing is to hold a hearing. The Department of Environmental Protection said that I never sent a title opinion, I had sent that in July 1998, so they pulled it out and said it was fine. I believe the notice was sent out the next day. I think after we have a clear picture of how things are going at the PSC we can go ahead and advertise. Concerning the rights-of-way, I'm continuing to do the updates, I have gotten two deeds back for the pump station sites which I have recorded, that's the one from Lawson Hamilton and Mrs. Wava Williams.

Mr. Hanna said concerning the issue with CSX, one of the things I was concerned about was the liability insurance provision, they did agree to reduce that to \$1,000,000.00. They

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said once they get the check from the Chelyan PSD they would send a new agreement.

Mr. Hanna said I have received some correspondence from Christopher Winton an Attorney with Payne, Loeb and Ray, they are involved with some litigations concerning rights-of-way matters at Wet Branch Hollow. Apparently a lady by the name of Margaret Hughes who owns some property in a subdivision which borders on the rights-of-way owned by the coal company has brought a law suit against Payne-Gallatin Mining Company. To make a long story short, when we went through the extension project up there we acquired an easement from Payne-Gallatin for certain areas involving a roadway. What it is, she claims she owns it and the coal company is trespassing on her property. He asked me if I had done a title opinion and I said no. I told him all we do is get an easement and verify that with the records on file at the County Clerk's Office. We never did a title search, I'm not going to say that they are actual owners. What I will do, I'll put language in where that we acquired the easement in 1984 based upon information on file at the Courthouse.

Commissioner Jessie asked about the letter from Ron Richards of Quincy Coal Company where customers are experiencing sewer gas in their homes.

Chairperson McPhail said it was a long time back, the men went over and smoke tested, the drains weren't properly vented. The only other thing we did was put gravel down. Mr. Richards came to our meetings several times and he said it was a problem of theirs.

The Board suggested to Manager Griffith that they smoke test again.

Mr. Sanghavi talked about the matter with Kanawha Electric, they are wanting to connect to the sewer. I told them they will need to file a permit modification, they pay this not Chelyan PSD.

Mr. Sanghavi said concerning the Cabin Creek sewer project, I run into Steven Zoeller, Manager of the County Commission, I told him we will probably be going to bid on this and I need to get final commitment of the \$500,000.00 the Governor has still not given. He felt it will come through, but before we close the loan three or four months down the road that money has to be there, without that the bond council will not let you close the bond. Also, the first letter you got from EPA, where they requested that you send them \$45,672.00, they have reduced that by \$11,265.00. They are now requesting that you send them \$34,357.00. There should be a letter coming from EPA to that effect sometime soon. I think we can probably start construction in May or June this year.

Mrs. McPhail said she talked with Tom Gallagher of EPA, he said we would get a notice within thirty (30) days, which we haven't. He said I could talk with the attorneys because they have the authority to have us pay all or have us pay none. They can give us a hardship status and can reduce it further because of need. If we don't hear in a couple of weeks I will call back.

Commissioner Jessie said I still have the original key for the front gate since I have been here. We have changed managers and employees and I still have the original key to the back and the front gate that I have always had. We've talked about we wanted to change the lock and the alarm code, so I want to make it clear tonight, between now and next month that we get the lock on the front gate changed, keys distributed and the new code on the alarm. Also, you need to keep the lab cleaned, I noticed it was pretty dirty.

Mr. Griffith said I will take care of the keys and code tomorrow.

Mr. Griffith asked attorney Hanna on drafting a letter to notify new residents of the

MINUTES OF THE
REGULAR MONTHLY MEETING OF THE
CHELYAN PUBLIC SERVICE DISTRICT
HELD THURSDAY, JANUARY 14, 1999

security deposit to be paid to the District.

Mr. Hanna didn't see a problem with that, you might want me to review it before circulation.

Manager Griffith talked about things they are doing here at the plant. First, we will begin using chlorine tablets in the Lincoln station and a monitoring study of the effectiveness of the tablets, the usage and the cost impact to the District. In reference to the filter/blower at the Malden plant, I have inspected the apparatus and I do not think that it will be effective for the needs at Lincoln station or for Cedar Grove. We are incorporating enzymes into various lift stations and this is to help with grease control and odor control as well as in long term applications with the plant itself. I am developing a wasting plan as to increase the detention time in the aeration basins. The lab is not certified yet, however, I am working on getting it into standard. While on the subject of the lab, a question arose if the reagents had been disposed in a proper manner, the answer to that is yes. Also, there might be the need to purchase a new D.O. meter. The balances have been calibrated and are in compliance. We are trying to get the printer working, I had to go and buy a longer cord. There will be a man from Circuit City coming tomorrow to get the printer working. We will need tires for the newer pick-up and later spring or early summer for the dump truck. I have applied for a line of credit at Appalachian Tire so we can purchase the tires. We can still use the landfill for dumping, but we still need to find another site.

The Board agreed to have B & C Communications give a quote on the repair of the Quincy station only and to check if the telemetry computer is Y2K compatible. Also, find out about a surge protector on the station.

Mr. Griffith said I don't want to make anyone mad, but I need to be called when the guys are called out. I have a pager, so they can get a hold of me anytime.

Chairperson McPhail said we had agreed on that and it was all worked out.

Mrs. McPhail said I would like to have another personnel meeting, if it's okay with you all what about Monday, January 25, 1999 at 4:30 p.m.

The Board agreed.

Mrs. McPhail moved to adjourn the meeting at 6:00 p.m. Mr. Jessie presented the second and it was so ordered.

APPROVED: Samuel L. Shelton

DATE: FEBRUARY 11, 1999

CHELYAN PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

BOND RESOLUTION

CHELYAN PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

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Exhibit A - Project Description

BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF CHELYAN PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF ITS SEWERAGE SYSTEM REVENUE BONDS; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF SEWERAGE SYSTEM REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,700,000, SUCH BONDS TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF CHELYAN PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Resolution. This Resolution is enacted pursuant to the provisions of Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

Section 1.02. Definitions. The following terms shall have the following meanings in this Resolution unless the context expressly requires otherwise.

"Act" shall mean collectively Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended and in effect on the date of adoption of this Resolution.

"Authority" shall mean the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds on behalf of the Program, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Bond Act" means Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended and in effect on the date of the enactment of this Resolution.

"Bond Construction Trust Fund" shall mean the fund created by Section 6.01 hereof.

"Bondholder" or "Owner of the Bonds" or "Registered Owners" or "Holder" or any similar term shall mean any person who shall be the registered owner of any Outstanding Bond or Bonds as hereinafter defined.

"Bonds" shall mean the Original Bonds and any pari passu additional Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bonds in substantially the form set forth in Section 3.08 hereof, or, as appropriate, the certificate of authentication and registration on the Notes in substantially the form set forth in Section 4.05 hereof.

"Chairperson" means the Chairperson of the Governing Body.

"Closing Date" shall mean the date upon which there is an exchange of the Bonds for all or a significant portion of the proceeds representing the purchase of the Bonds by the Authority.

"Code" shall mean the Internal Revenue Code of 1986, as amended, including the rules and regulations promulgated pursuant thereto or any predecessors or successors thereto.

"Commission" shall mean the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia which succeeds to the functions of the Commission.

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

"Consulting Engineers" shall mean S & S Engineers, Inc., Charleston, West Virginia, or any engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Cost of Project" or "Costs" shall mean those costs described in Section 1.04(H) hereof to be a part of the cost of the acquisition and construction of the Project.

"Debt Service" shall mean the scheduled amount of interest, if any, and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"DEP" shall mean West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment, or any other agency, board or department of the State that succeeds the functions of the DEP.

"Depository Bank" shall mean a bank or national banking association located in the State, eligible under the laws of the State to receive deposits of state municipal funds and insured by the FDIC, and designated as such in the Supplemental Resolution, and its successors and assigns.

"Event of Default" means any event or occurrence specified in Section 9.01 hereof.

"Extended Bond Purchase Program" shall mean the Extended Bond Purchase Program, an amendment to the Program under which DEP is authorized to provide non-interest bearing loans to disadvantaged communities, with terms, not to exceed the earlier or thirty years or the useful life of the project funded, to be established with reference to the community's median household income.

"FDIC" means the Federal Deposit Insurance Corporation and any successor to the functions thereof.

"Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

"Fund" shall mean the "West Virginia Water Pollution Control Revolving Fund" established by the State, administered by the DEP and funded by capitalization grants awarded to the State pursuant to the federal Clean Water Act, as amended, for the purpose of establishing and maintaining a permanent perpetual fund for the construction, acquisition and improvement of wastewater treatment facilities.

"Governing Body" means the public service board of the Issuer 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 Issuer.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America, including (i) such obligations which have been stripped from their unmatured interest coupons, interest coupons stripped from such obligations and receipts or certificates evidencing payments from such obligations or interest coupons stripped from such obligations, (ii) evidences of ownership of a proportionate interest in specified direct obligations of, or specified obligations which are unconditionally and fully guaranteed by, the United States of America, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian and (iii) obligations, the sole source of the payment of the principal of and interest on which are obligations of the nature of those described in clause (i), which are irrevocably pledged for such purposes.

"Grants" means, collectively, a grant from the Governor's Partnership Grant program in the amount of \$1,035,000, a grant from the County Commission of Kanawha County in the amount of \$1,175,000 and a Small Cities Block Grant in the amount of \$1,250,000.

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

"Independent Accountants" shall mean any certified public accountant or firm of certified public accountants which shall be retained by the Issuer as independent accountants for the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Infrastructure Council" means the West Virginia Infrastructure and Jobs Development Council or any successor thereto.

"Issuer" or "District" means Chelyan Public Service District, a public corporation and political subdivision of the State.

"Loan Agreement" shall mean the Water Pollution Control Revolving Fund Bond Purchase Agreement dated July 13, 1999 by and among the Authority, the DEP and the Issuer providing for the purchase of the Bonds from the Issuer by the Authority..

"Net Revenues" shall mean the balance of the Gross Revenues remaining after deduction of Operating Expenses, as hereafter defined.

"Operating Expenses" shall mean 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, DEP, the Infrastructure Council, fiscal agents, the Registrar and the Paying Agent (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; and 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 shall mean the not more than \$2,700,000 in aggregate principal amount of the Issuer's Sewerage System Revenue Bonds, Series 1999 A, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

"Outstanding" when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon having been authenticated and delivered except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such 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 such Bond registered to the Issuer.

"Parity Bonds" shall mean additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof, payable from Net Revenues on a parity with the Original Bonds.

"Paying Agent" shall mean the West Virginia Municipal Bond Commission or such other entity or authority as may be designated as a paying agent by the Issuer and the Supplemental Resolution with the written consent of the Authority and the DEP.

"Prior Bonds" shall mean the Series 1979 Bonds, the Series 1994 A Bonds, the Series 1994 B Bonds, and the Series 1995 A Bonds.

"Prior Notes" shall mean the Issuer's Sewerage System Design Note, Series 1998 A, dated July 10, 1998 and issued in the aggregate principal amount of \$90,000.

"Prior Notes Resolution" shall mean the Resolution adopted by the Governing Body on July 9, 1998 authorizing the issuance of the Prior Notes.

"Prior Obligations" shall mean the Prior Bonds and the Prior Notes.

"Prior Resolutions" shall mean the Series 1979 Resolution, the Series 1994 Resolution and the Series 1995 Resolution.

"Program" shall mean the wastewater treatment facility acquisition, construction and improvement program coordinated through the capitalization grants program established under the Clean Water Act and administered by the DEP, and includes the Extended Bond Purchase Program.

"Project" shall mean the acquisition and construction of certain extensions, additions, betterments and improvements to the System, a description of which is attached hereto as Exhibit A and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successor to the functions thereto.

"PSC Order" means the Commission Order of the PSC dated June 6, 1999 in Case No. 98-0639-PWD-CN, as it may be amended or supplemented prior to the issuance of the Bonds, granting the Issuer a Certificate of Convenience and Necessity to construct the Project and approving the financing thereof.

"Qualified Investments" shall mean and include 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; the Tennessee Valley Authority; or the Washington Metropolitan Area Transit Authority;
- (d) Any bond, debenture, note, participation certificate or other similar obligation 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 Federal Deposit Insurance Corporation ("FDIC"), shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner 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 "consolidated fund" (or any distinct portion thereof) managed by the West Virginia Investment Management Board pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

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

"Registrar" shall mean the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns for the purpose of authentication and registration of the Bonds.

"Regulations" shall mean the regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the fund created or continued in Section 5.01(2) hereof.

"Resolution" means this resolution, as from time to time amended or supplemented.

"Revenue Fund" shall mean the fund created by or continued in Section 5.01(1) hereof.

"SRF Administrative Fee" shall mean any administrative fee required to be paid pursuant to the Loan Agreement.

"SRF Act" shall mean Chapter 22C, Article 2 of the Code of West Virginia, 1931, as amended, and in effect on the date of the enactment of this Resolution.

"SRF Regulations" shall mean the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations, as amended, and includes the emergency regulations authorizing the Extended Bond Purchase Program.

"Secretary" means the Secretary of the Governing Body.

"Series 1979 Bonds" means the Issuer's Sewerage System Revenue Bonds dated September 13, 1979 and issued in the aggregate principal amount of \$822,100.

"Series 1979 Resolution" means the Resolution adopted by the Governing Body on December 12, 1978 authorizing the issuance of the Series 1979 Bonds.

"Series 1994 A Bonds" means the Issuer's Sewerage System Revenue Bonds dated April 22, 1994 and issued in the aggregate principal amount of \$1,023,500.

"Series 1994 B Bonds" means the Issuer's Sewerage System Revenue Bonds dated April 22, 1994 and issued in the aggregate principal amount of \$175,276.

"Series 1994 Resolution" means the Resolution adopted by the Governing Body on April 18, 1994 authorizing the issuance of the Series 1994 A Bonds and the Series 1994 B Bonds.

"Series 1995 A Bonds" means the Issuer's Sewerage System Revenue Bonds dated June 29, 1995 and issued in the aggregate principal amount of \$634,000.

"Series 1995 Resolution" means the Resolution adopted by the Governing Body on June 28, 1995 authorizing the issuance of the Series 1995 A Bonds.

"Series 1999 A Reserve Account" shall mean the Reserve Account created by Section 5.02(1)(a) hereof.

"Series 1999 A Reserve Requirement" shall mean, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Bonds in the then current or any succeeding Fiscal Year.

"Series 1999 A Sinking Fund" shall mean the Sinking Fund created by Section 5.02 hereof.

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolutions 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.

"Surplus Revenues" shall mean the net revenues not required by this Resolution to be set aside and held for the payment of or security for the Bonds, including the Reserve Account and the Renewal and Replacement Fund.

"System" shall mean the existing wastewater collection and treatment system of the Issuer, and shall include any extensions, additions, betterments and improvements thereto.

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

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

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

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

Section 1.03. Resolution Constitutes Contract. In consideration of the acceptance of the Original Bonds and any other bonds authorized to be issued hereunder by those who shall own the same from time to time, this Resolution 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 said Issuer shall be for the equal benefit, protection and security of the legal owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State in Kanawha County of said State. The Issuer now owns and operates a public wastewater collection and treatment system furnishing service to residences, premises and businesses residing or located within the Issuer's service territory. However, there are several communities in the Cabin Creek area of Kanawha County and within the Issuer's service territory that are not yet served by a public wastewater system. Certain of these communities have experienced reported outbreaks of encephalitis linked to the presence of open sewer lines, raising serious health concerns.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, generally consisting of the acquisition and construction of approximately 70,000 feet of sanitary sewer collection lines, seven pumping stations and two grinder pumping stations between Dry Branch and Cabin Creek Medical Center to serve approximately 640 new customers. The Project will have an estimated cost of \$6,068,000 and will be constructed in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by DEP and are on file with the Issuer. The Project is generally described in Exhibit A attached hereto and has an estimated useful life in excess of thirty years.

C. The Issuer derives Net Revenues from the System. The Net Revenues are currently encumbered by four outstanding obligations, including the Issuer's Series 1979 Bonds, dated September 13, 1979 and issued in the aggregate principal amount of \$822,100; the Issuer's Series 1994 A Bonds, dated April 22, 1994 and issued in the aggregate principal amount of \$1,023,500; the Issuer's Series 1994 B Bonds, dated April 22, 1994 and issued in the aggregate principal amount of \$175,276; and the Issuer's Series 1995 A Bonds, dated June 29, 1995 and issued in the aggregate principal amount of \$634,000 (collectively, the "Prior Bonds"). Other than the Prior Bonds, the Net Revenues of the System are not encumbered in any manner. The Issuer has received or, prior to the issuance of the Bonds, will have received, a certification from an Independent Accountant that the various tests for the issuance of parity bonds set forth in the Prior Resolutions have been met or waived.

D. In addition to the Prior Bonds, the Issuer has also issued its Sewerage System Design Note, Series 1998 A, dated July 10, 1998 and issued in the aggregate principal amount of \$90,000 (the "Prior Notes," and collectively with the Prior Bonds, the "Prior Obligations") pursuant to a resolution adopted by the Governing Body on July 9, 1998 (the "Prior Notes Resolution"). The Prior Notes are not secured by the net revenues of the System, but have a first lien on the proceeds of any grants (other than Infrastructure Fund grants) for the System, the proceeds of any Original Bonds or any other revenue bonds, refunding bonds or other obligations of the Issuer for the System issued subsequent to the

issuance of the Prior Notes, and Surplus Revenues, if any, if adequate to amortize the Prior Notes over a twenty-year period. Section 3.09 of the Prior Notes Resolution provides, however, that the proceeds from the permanent financing of the acquisition and construction of sewer line extensions from Dry Branch to Cabin Creek Medical Center (the purpose for which the Original Bonds are to be issued) are not required to be used to repay the Prior Notes.

E. The Issuer (i) has informed the Authority and the Infrastructure Council of its intent to authorize the issuance of additional indebtedness related to the System as required by Section 3.15 of the Prior Notes Resolution and (ii) has secured the written consent of the Authority and the Infrastructure Council to issue revenue bonds and notes payable from the revenues of the System as required by Section 3.13 of the Prior Notes Resolution.

F. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its revenue bonds to the Authority. The Issuer also intends to apply the proceeds of several grants to finance a portion of the costs of acquisition and construction of the Project, including a grant from the Governor's Partnership Grant program in the amount of \$1,035,000, a grant from the County Commission of Kanawha County in the amount of \$1,175,000 and a Small Cities Block Grant in the amount of \$1,250,000 (the "Grants").

G. The estimated revenues to be derived in each year after the adoption of this Resolution 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 the Original Bonds of the Issuer and all sinking fund and other payments provided for in this Resolution and in the Prior Resolutions.

H. It is deemed necessary for the Issuer to issue its Original Bonds in the aggregate principal amount of not more than \$2,700,000 to finance the costs of the acquisition and construction of the Project herein described through the Program. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest on the Original Bonds prior to and during construction or acquisition and for six months after completion of construction of the Project, if any; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority and DEP, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Original Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the 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 Original Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

I. The Infrastructure Council has approved the Project. 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 the Loan Agreement.

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 Original Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the PSC by Final Order, the time for rehearing and appeal of which will have expired prior to the issuance of the Original Bonds.

ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications prepared by the Consulting Engineers, approved by DEP and the Issuer, and on file in the office of the Governing Body; provided, however, that such plans and specifications, and the construction and acquisition of the Project in accordance therewith, are subject to the specific authorization by the Governing Body pursuant to a Supplemental Resolution.

The Issuer has received acceptable bids for the acquisition and construction of the Project. Prior to or concurrently with the issuance of the Original Bonds, the Issuer must enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds. For the purposes of funding the reserve account, paying costs of issuance, financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, or any one or more of such items, there shall be issued the Original Bonds of the Issuer. The Original Bonds shall be initially issued in one or more series to be designated "Sewerage System Convertible Revenue Bonds, Series 1999 A," and so on, in an aggregate principal amount not to exceed \$2,700,000. The Original Bonds shall be dated as of the date of delivery thereof and shall mature at such times, not exceeding thirty (30) years after the date of issuance and in such amount or amounts as shall be set out in the Loan Agreement. The Original Bonds shall bear no interest. The Original Bonds shall be subject to the SRF Administrative Fee set out in the Loan Agreement. The repayment of principal on the Original Bonds shall be as set forth in the Loan Agreement. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Loan Agreement and as the Governing Body shall prescribe by a supplemental or amendatory resolution hereto adopted in connection with the sale of such Original Bonds.

The Original Bonds shall be payable as to principal, at the principal 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.

Unless otherwise provided in the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreement and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bonds in aggregate principal amount equal to the amount of said 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. Said Bonds shall be dated as of the date specified in said Supplemental Resolution.

Section 3.02. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Chairperson and attested by the Secretary, and the seal of the Issuer shall be affixed thereto or imprinted thereon. 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 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 3.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly 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 Resolution. 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 3.04. 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 owner, 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 owner 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.

Bonds shall be transferable only upon the books of the Registrar, by the registered Owner thereof in person or by the Owner's 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 the Owner's duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled 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 3.05. 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 deliver a new Bond 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 Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Registrar and held for the account of the Issuer. If 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 therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. 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 Owner or Owners 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 any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all 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 on a parity with the lien of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Bonds, to make the payments into the Series 1999 A Sinking Fund and the Series 1999 A Reserve Account therein and into the Renewal and Replacement Fund hereinafter established or contained, and to make the payments into the sinking funds, reserve accounts, and renewal and replacement or depreciation funds established for the Prior Bonds, are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Original Bonds. The text of each series of Original Bonds shall be of substantially the following tenor, with such omissions, insertions and

variations as may be necessary and desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof.

[FORM OF THE SERIES 1999 A BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CHELYAN PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A
(WEST VIRGINIA SRF EXTENDED BOND PURCHASE PROGRAM)

No. AR-1

\$ _____

KNOW ALL MEN BY THESE PRESENTS: That CHELYAN PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws 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 Two Million Five Hundred Eighteen Thousand Dollars (\$2,518,000), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 in each year beginning ____ 1, 200_, with no interest. The payment of principal of this Bond shall be as set forth on the "Schedule of Debt Service" attached as Exhibit B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter-described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning _____ 1, 200_, as set forth on Exhibit B.

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 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 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 as otherwise provided by the Bond Purchase Agreement dated July 13, 1999 by and among the Authority, the DEP and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing wastewater collection and treatment system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and 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 enacted by the Issuer on July 8, 1999,

and a Supplemental Resolution adopted by the Issuer on July 8, 1999 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN ON AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED SEPTEMBER 13, 1979 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$822,100; THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED APRIL 22, 1994 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,023,500; THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED APRIL 22, 1994 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$175,276; AND THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED JUNE 29, 1995 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$634,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Prior Bonds, to be derived from the operation of the System, moneys in the Series 1999 A Reserve Account created under the Resolution 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 or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999 A Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1999 A Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount 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 Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of The City National Bank of West Virginia, Charleston, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney

duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided 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 Resolution 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 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 Resolution and the 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.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, CHELYAN PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 13th day of July, 1999.

[SEAL]

Chairperson

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

THE CITY NATIONAL BANK
OF WEST VIRGINIA,
As Registrar

By _____
Its Authorized Officer

Dated: July 13, 1999

EXHIBIT A
RECORD OF ADVANCES

| Amount | Date | Amount | Date |
|--------|------|----------|-------|
| (1) \$ | | (7) \$ | |
| (2) \$ | | (8) \$ | |
| (3) \$ | | (9) \$ | |
| (4) \$ | | (10) \$ | |
| (5) \$ | | (11) \$ | |
| (6) \$ | | (12) \$ | |
| | | Total \$ | _____ |

EXHIBIT B

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 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. As a ratification of the resolution or resolutions of the Governing Body authorizing execution of the Loan Agreement, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority. The Loan Agreement is specifically incorporated into this Resolution.

Section 3.10. Certificate of Consulting Engineers. Prior to the issuance of the Original Bonds, the Issuer must obtain the certificate of the Consulting Engineers, in the form attached to the Loan Agreement, to the effect that the Project has been designed as provided in the Program application and will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, that the Project will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the acquisition and construction of the Project.

Section 3.11. Amended Schedule A Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority its schedule, in substantially the form of "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds used therefor.

ARTICLE IV

[Reserved]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Continuation of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or, if established by a resolution prior to this resolution, continued hereby) and shall be held by the Depository Bank:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Series 1999 Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

- (1) Series 1999 A Bonds Sinking Fund; and
 - (a) Within the Series 1999 A Bonds Sinking Fund, the Series 1999 A 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 Resolution 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 therein and herein provided.

(1) The Issuer shall, on the first day of each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund an amount necessary to make, simultaneously and without preference or priority as between any of the deposits, the following deposits on account of interest on the Prior Bonds, on the respective dates set forth in the Prior Resolutions: to make the interest payments required by Section 3.02(B)(2) of the Series 1979 Resolution, Section 5.03(2) of the Series 1994 Resolution and Section 5.03(2) of the Series 1995 Resolution.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund an amount necessary to make, simultaneously and without preference or priority as between any of the deposits, the following deposits, on the respective dates set forth herein and in the Prior Resolutions: (i) to make the principal payments required by Section 3.02(B)(2) of the Series 1979 Resolution, Section 5.03 (3) of the Series 1994 Resolution and Section 5.03(3) of the Series 1995 Resolution; and (ii) on the first day of each month commencing 4 months prior to the first date of payment of principal, to remit to the Commission, for deposit in the Series 1999 A Sinking Fund, a sum equal to 1/3rd of the amount of principal which will become due on the Bonds 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 1999 A Sinking Fund and the next quarterly principal payment date is less than 4 months, then such monthly payment shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date. When additional series of Original Bonds are issued, the payment of principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(2) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund an amount necessary to make, simultaneously and without preference or priority as between any of the deposits, the following deposits, on the respective dates set forth herein and in the Prior Resolutions: (i) to make the respective payments required by Section 3.02(B)(3) of the Series 1979 Resolution, Section 5.03(4) of the Series 1994 Resolution and Section 5.03(4) of the Series 1995 Resolution on account of the reserve accounts established for the Prior Bonds; and (ii) on the first day of each month commencing 4 months prior to the first date of payment of principal, to remit to the Commission, for deposit in the Series 1999 A Reserve Account, if not fully funded upon issuance of the Bonds, an amount equal to 1/120 of the Series 1999 A Reserve Requirement; provided, that no further payments shall be made into the Series 1999 A 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 1999 A Reserve Requirement. When additional series of Original Bonds are issued, the deposits on account of the reserve accounts established for said bonds shall be made simultaneously with the payments described in this Section 5.03A(3) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(5) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, the Issuer shall transfer from the Revenue Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any reserve account pursuant to Section 5.03A(3) hereof; provided, that for so long as the Series 1979 Bonds are Outstanding and there has not been accumulated in the Renewal and Replacement Fund, or the balance therein has fallen below, the aggregate sum of \$10,000, the Issuer shall transfer all moneys remaining in the Revenue Fund after the transfers described in Sections 5.03A(1), (2), (3) and (4) and not permitted to be retained therein. 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 for so long as the Series 1979 Bonds are Outstanding, withdrawals and disbursements from the Renewal and Replacement Fund may also be used to make up any deficiencies for monthly payments of principal and interest on the Series 1979 Bonds; and provided further, that any deficiencies in the respective reserve accounts (except to the extent such deficiencies exist 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 1999 A Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. Moneys in the Series 1999 A Reserve Account shall be used only for the purpose of paying principal of or interest on the Bonds, as the same shall come due, when other moneys in the Series 1999 A Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the Series 1999 A Reserve Account shall be transferred, not less than once each year, to the Bond Construction Trust Fund prior to completion of the Project and thereafter, pro rata, to the Series 1999 A Sinking Fund.

Any withdrawals from the Series 1999 A Reserve Account which result in a reduction in the balance of the Series 1999 A Reserve Account to an amount below the Series 1999 A Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1999 A Sinking Fund for payment of debt service on the Bonds have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Series 1999 A Sinking Fund sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Series 1999 A Reserve Account in an amount equal to the Series 1999 A Reserve Requirement.

The Commission is hereby designated as the fiscal agent for the administration of the Series 1999 A Sinking Fund created hereunder, and all amounts required for said Series 1999 A Sinking Fund shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Series 1999 A 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 Resolution. In the

case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, 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.

Moneys in the Series 1999 A Reserve Account shall be invested and reinvested by the Commission in accordance with Article VIII hereof.

The Series 1999 A Sinking Fund, including the Series 1999 A Reserve Account therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Bonds and any additional Bonds ranking on a parity with them that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove 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 Series 1999 A Sinking Fund, including the Series 1999 A Reserve Account therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due.

Simultaneously with the deposits made to the Commission pursuant to Section 5.03A(3) and (4), the Issuer shall remit to the Commission the SRF Administrative Fee.

The Issuer shall complete the "monthly payment form," which form is attached to the 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 fifth day of each calendar month.

E. The moneys in excess of 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 security for deposits of state and municipal funds under the laws of the State.

F. 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.

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

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

Section 5.04. Excess Bond Proceeds. Upon completion of construction of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the Series 1999 A Bonds shall be used as directed in writing by the Authority and the DEP.

ARTICLE VI

APPLICATION OF ORIGINAL BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond Proceeds. From the moneys received from time to time 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 Bonds, there shall be deposited with the Commission in the Series 1999 A Reserve Account the sums, if any, set forth in the Supplemental Resolution for funding of said Reserve Account.

B. The remaining moneys derived from the sale of the Original Bonds shall be deposited by the Issuer, as received from time to time, in the Bond Construction Trust Fund hereinafter established.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Series 1999 A Bond Construction Trust Fund," with a separate subaccount to be established for the Original Bonds. The Depository Bank shall act as a trustee and fiduciary for the Bondholders 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 this Resolution. 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 Bonds.

Section 6.02. Disbursements From the Bond Construction Trust Fund.

A. With respect to the proceeds of the Bonds, on or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund from proceeds of the Bonds (except for the cost of issuance of the Bonds which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the DEP of the following:

- (1) A "Payment Requisition Form," attached to the Loan Agreement, and
- (2) a certificate, signed by the Chairperson 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 disbursements 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.

B. 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 subaccounts therein, 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 set forth in this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the owners 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, if any, thereon, is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Bonds 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 Resolution. No Holder or Holders of any Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay said Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith, equally and ratably, by a first lien on the Net Revenues derived from the operation of the System on a parity with the Prior Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds herein authorized and the Prior Bonds and to make the payments into the sinking funds, including the reserve accounts therein, established for the Bonds and the Prior Bonds, and all other payments provided for in this Resolution and the Prior Resolutions, are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and the Prior Bonds and for the other purposes provided in the Resolution.

Section 7.04. Rates. Prior to issuance of the Original Bonds, equitable rates or charges for the use of and service rendered by the System will be established 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 reductions 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, including any reserves required by the PSC Order or any supplemental or

amendments thereto, and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Bonds; provided that, in the event that amounts at least equal to or in excess of the respective Reserve Requirements are on deposit in the respective Reserve Accounts, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bonds.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures, for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof, from the revenues of said System, in the manner provided in the Resolution.

Upon completion of the Project, the Issuer shall file with the Authority a schedule, in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 7.06. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit, on a pro rata basis, in the Series 1999 A Sinking Fund and the sinking funds established for any Prior Bonds then Outstanding, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal and any interest, if any, at maturity of Bonds and Prior Bonds about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds and Prior Bonds. Any balance remaining after the redemption or payment of all the Bonds and Prior Bonds and the 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 and, for so long as any of the Prior Bonds are Outstanding, to the extent the Prior Resolutions authorizing such Prior Bonds do not establish more restrictive provisions and limitations, 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. The Governing Body may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars (\$10,000), or authorize such sale, lease or other disposition of such property, upon public bidding, if the amount to be received therefor is in excess of ten thousand dollars (\$10,000) but not in excess of one hundred thousand dollars (\$100,000). The proceeds of any such sale, lease or other

disposition of such property, not in excess of \$100,000, shall be deposited in the Renewal and Replacement Fund. The proceeds derived from any such sale, lease or other disposition of such property, in excess of \$10,000 and not in excess of \$100,000, shall be remitted by the Issuer to the Commission for deposit, or a pro rata basis, in the Series 1999 A Sinking Fund, the sinking funds for the Prior Bonds then Outstanding, and shall be applied only to the redemption of Bonds and Prior Bonds of the last maturities then Outstanding or to the purchase of Bonds and Prior Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds and Prior Bonds. Such payments of such proceeds into the Series 1999 A Sinking Fund, the sinking funds for the Prior Bonds then Outstanding, and the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution.

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 shall be in excess of two hundred thousand dollars (\$200,000) and be insufficient to pay or redeem, prior to maturity, all the Bonds then Outstanding, without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then owners of the Bonds, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 7.08 hereof, 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 Parity Bonds may be issued as provided in Section 7.08 hereafter. All obligations hereafter issued by the Issuer 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 to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Series 1999 A 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, except with respect to said pari passu additional Bonds, 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 Resolution 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 Project, payable from the revenues of the

System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.08. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and with the prior written consent of DEP and the Authority.

No Parity Bonds shall be issued, except for the purpose of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the entirety of one or more issues or series of bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Secretary a written statement by Independent 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, from the System during any twelve (12) consecutive months within the eighteen (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 three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

- (1) Each series of Original Bonds and 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 three (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 any increase in rates enacted by the Issuer, the time for appeal of which shall have 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 additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (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 Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, on account of

increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have 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 acquisition or construction of such extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners 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 respective liens on the revenues of the System, and their respective sources 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 created in this Resolution required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Outstanding 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 at any time, however, unless all the payments into the respective funds and accounts provided for in this Resolution on account of the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.09. Insurance and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will 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 the DEP, so long as the Authority is the Owner of the Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and 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, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their

interests may appear, in accordance with the Loan Agreement, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer shall also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority and DEP and as set forth in the Loan Agreement, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

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.

Section 7.10. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority and the 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. Such resident engineer shall certify to the Authority, the DEP and the Issuer, 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 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, the form of which is attached as Exhibit A to the Loan Agreement and is incorporated herein by reference, 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 Regulations, to the DEP when the Project is 90% completed. The Issuer agrees that it will, at all times, provide operation and maintenance of the System to comply with any and all State and federal standards. The Issuer agrees that qualified operating personnel, properly certified by the State, will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

The Issuer agrees that qualified operating personnel, properly certified by the State, will be retained to operate the System during the entire term of the Loan Agreement.

Section 7.11. Compliance With Loan Agreement, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreement and 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 operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP with copies of all documents submitted to the Authority.

Section 7.12. No Free Services. Except as provided by law, the Issuer will not render or cause to be rendered any free services, of any nature, by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself 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. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. 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 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System shall remain unpaid for a period of thirty (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. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off the services and facilities of the System to all delinquent users of the services and facilities of the System, and will not restore the services and facilities of the System to all delinquent users until all delinquent charges, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 7.14. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.15. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs 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 they 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 Agreement or 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 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 owner of a Bond or Bonds issued pursuant to the Resolution 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 currently accepted accounting practices in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers and the Authority and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants in compliance with the applicable OMB Circular, or any successors thereto, and the Single Audit Act, or any successors thereto, and shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Resolution, and shall submit said report to the Authority, the Infrastructure Council and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreement and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report and forward a copy by the 10th of each month to the Authority and the DEP.

The Issuer shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

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 Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority or the DEP, 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 of the Project, the Issuer shall also provide the Authority and the DEP, 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 Authority and the DEP with respect to the System pursuant to the Act.

Section 7.16. Operating Budget. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority and the DEP within thirty days of the 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 Governing Body 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 address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him 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.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and 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 Bureau for Public 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 PSC 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 matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Bureau for Public 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 7.18. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by the Bond Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Owners of the Bonds.

Section 7.19. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.20. Covenant to Amend Resolution. The Issuer retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Resolution as the Issuer deems necessary prior to the issuance of the Bonds to meet the requirements of the Authority.

Section 7.21. Compensation of the Issuer. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Governing Body of the Issuer in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is a default in the performance of or compliance with any covenants or provision hereof.

Section 7.22. Securities Law 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).

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, 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 Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, 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, including but not limited to those in the Bond Construction Trust Fund, and used for the purpose of such fund or account. 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 Owner, including the value of accrued interest and giving effect to the amortization of discount and investments in the "consolidated fund" of the West Virginia Investment Management Board shall be valued at par. The Commission or the Depository Bank, 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. Such 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.

Notwithstanding the foregoing, any investments made pursuant to this Resolution shall comply with the guidelines of 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 Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any series of Original Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Resolution, any supplemental Resolution, or in such 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 any bank or banking association holding any fund or account hereunder or an owner of such Bonds; or

(C) If a default occurs under the Prior Resolutions; or

(D) 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 with respect to any Bonds, any Registered Owner of such 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 Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such 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 such Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Resolution with respect to such Bonds, or the rights of such registered Owners; provided that all rights and remedies of the Registered Owners shall be subject to and parity with those of the Registered Owners of the Prior Bonds..

Section 9.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Resolution and the Act, including 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 default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any

covenant contained in the Resolution other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder 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 the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, 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 issued pursuant to the Resolution and interest thereon and under any covenants of the Resolution for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any owner of Bonds issued pursuant to this Resolution 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, 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 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 Owners of Bonds issued pursuant to the Resolution. 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 Bondholders, and the curing and making good of any default under the provisions of the Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, then the pledge of Net Revenues and any other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Bondholders 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 Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the 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 or its agents, 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 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 purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on 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 principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments 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 XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification or amendment of this Resolution or of any resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or the rates of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, as provided in this Resolution without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications.

Section 11.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution.

Section 11.03. Table of Contents and Headings. The Table of Contents and the headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 11.04. Repeal of Conflicting Resolutions. All resolutions, resolutions and orders, or parts thereof, in conflict with this Resolution are, to the extent of such conflict, repealed.

Section 11.05. Covenant of Due Procedure. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, the 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.

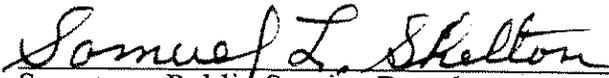
Section 11.06. Effective Date. This Resolution shall take effect immediately upon its adoption.

CHELYAN PUBLIC SERVICE DISTRICT

[SEAL]



Chairperson, Public Service Board



Secretary, Public Service Board

Treasurer, Public Service Board

CHASFS3:149167

CERTIFICATION

Certified as a true copy of the Resolution adopted by the Public Service Board
of Chelyan Public Service District.

Samuel L. Shelton
Secretary, Public Service Board

[SEAL]

CHASFS3:146782

EXHIBIT A

Project Description

The Project consists of certain additions and extensions to the existing sewer collection facilities of the Issuer in the communities of Dry Branch, Ronda, Sharon, Miami and Dawes, and will extend sewer service to approximately 650 new residential, commercial and industrial customers. Approximately 80,000 LF of sanitary sewer collection lines, 10,000 LF of forcemains, and nine pumping stations will be constructed. Two existing pump stations will be upgraded to accommodate increased flows resulting from the additional customers. The new facilities will be connected to the Issuer's existing wastewater treatment plant.

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE CHELYAN PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A.; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK FOR THE BONDS; MAKING PROVISIONS FOR THE PAYMENT OF THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Board") of Chelyan Public Service District (the "District"), has duly and officially adopted a Bond Resolution on July 8, 1999 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF CHELYAN PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF ITS SEWERAGE SYSTEM REVENUE BONDS; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF SEWERAGE SYSTEM REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,700,000, SUCH BONDS TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Resolution provides for the issuance of the Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A (the "Bonds"), in the aggregate principal amount not to exceed \$2,700,000, and has authorized the execution and delivery of a Bond Purchase Agreement by and among the District, the West Virginia Division of Environmental Protection ("DEP") and the West Virginia Water Development Authority (the "Authority") relating to the Bonds (the "Loan Agreement"), including all amendments and supplements thereto, all in accordance with Chapter 16, Article 13A and Chapter 22C, Article 2 of the Code of West Virginia Code, 1931, as amended (collectively, the "Act");

WHEREAS, in the Resolution it is provided that 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 Board deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and 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; and

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF CHELYAN PUBLIC SERVICE DISTRICT AS FOLLOWS:

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 Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A, originally represented by a single Bond, numbered AR-1, in the principal amount of \$2,518,000 (the "Bonds"). The Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2031, and shall bear no interest. The principal on the Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001. The Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, upon payment of the redemption premium, if any, and upon continued compliance with the Loan Agreement, so long as the Authority shall be the registered owner of the Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y" attached thereto and incorporated herein by reference. The District shall pay the 1/2% SRF Administrative Fee as provided in the Loan Agreement.

Section 2. The Bonds shall each be issued as a fully registered Bond, both as to principal and interest, if any, and shall be registered to the Authority.

Section 3. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 4. The District does hereby ratify the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery of the Chairperson of the Loan Agreement, and the performance of the obligations contained therein on behalf of the District are hereby authorized, directed, ratified and approved. The District hereby affirms all covenants and representations made in the Loan Agreement and in the Applications to the DEP and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the District.

Section 5. The District does hereby appoint and designate The City National Bank of West Virginia, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the District and the Registrar, in substantially the form attached hereto as Exhibit A. The execution and delivery by the Chairperson of the Registrar's Agreement, and the performance of the obligations contained therein on behalf of the District, are hereby authorized, approved and directed.

Section 6. The District does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 7. The District does hereby appoint The City National Bank of West Virginia, Charleston, West Virginia, as Depository Bank under the Resolution.

Section 8. The District has established with the Depository Bank a Reserve Account for the Bonds pursuant to the Resolution. The Reserve Account will be funded with equal payments on a monthly basis, in accordance with and pursuant to the schedule set forth in Section 5.03 of the Resolution, until such Reserve Account holds an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Bonds in the then current or any succeeding year. Moneys in the Reserve Account and the Sinking Fund (established for the annual payment of principal and interest, if any) will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to pay costs of the Project.

Section 9. The proceeds of the Bonds, as advanced from time to time, shall be deposited in or credited to the Series 1999 Bond Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds.

Section 10. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the

end that the Bonds may be delivered on or about July 13, 1999, to the Authority pursuant to the Loan Agreement.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District 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 District hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing by the District. Moneys in the Sinking Funds, including the Reserve Accounts therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The District hereby approves the costs of issuance and authorizes the payment of the same.

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Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

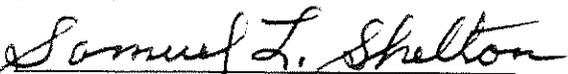
Dated: July 8, 1999

CHELYAN PUBLIC SERVICE DISTRICT



Chairperson, Public Service Board

[SEAL]



Secretary, Public Service Board

CERTIFICATION

Certified as a true copy of the Supplemental Resolution adopted by the Public Service Board of Chelyan Public Service District.

Samuel L. Shelton
Secretary, Public Service Board

[SEAL]

CHASFS3:149178

CHELYAN PUBLIC SERVICE DISTRICT

\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

SELECTED EXCERPT FROM MINUTES
ON ADOPTION OF BONDS
RESOLUTION AND SUPPLEMENTAL RESOLUTION

I, Samuel L. Shelton, Secretary of the Public Service Board of Chelyan Public Service District, hereby certify that the following is a true and correct excerpt of the minutes of a regular meeting of the said Public Service Board which meeting was held on Thursday, July 8, 1999, pursuant to its Rules of Procedure, at the District's Offices at 14991 McCorkle Avenue, at 7:00 p.m. as follows:

Present: Joyce McPhail - Chairperson, Public Service Board; and

Samuel L. Shelton - Secretary and Member, Public Service Board; and

Jerry W. Jessie - Member, Public Service Board; and

Also present were Samme L. Gee, Jackson & Kelly, Bond Counsel, and H. Wyatt Hanna, III, Esquire, Counsel to the District.

Joyce McPhail, Chairperson, presided and Samuel L. Shelton acted as Secretary.

The Chairperson announced that a quorum of members was present and that the meeting was open for any business properly before it.

Mr. Callas presented a Bond Resolution for the Series 1999 A Bonds in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF CHELYAN PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF ITS SEWERAGE SYSTEM REVENUE BONDS; AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF

SEWERAGE SYSTEM REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$2,700,000, SUCH BONDS TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING A BOND PURCHASE AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion of Mr. Jessie, seconded by Mr. Shelton, it was unanimously ordered that said Bond Resolution be adopted and be in full force and effect on and from the date thereof.

Mr. Callas then presented a Supplemental Resolution for the Series 1999 A Bonds in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE CHELYAN PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A.; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK FOR THE BONDS; MAKING PROVISIONS FOR THE PAYMENT OF THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

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

Copies of the Bond Resolution and Supplemental Resolution are attached and incorporated in the official minutes.

I hereby certify that the foregoing actions of said Public Service Board remain in full force and effect and has not been amended or appealed.

WITNESS my signature as of this 15th day of July, 1999.

[SEAL]


Secretary, Public Service Board

CHASFS3:126406



West Virginia Infrastructure & Jobs Development Council

Public Members:

James D. Williams, Chairman
St. Albans
James L. Harrison, Sr., Vice Chairman
Princeton
Lloyd P. Adams, P.E.
Wheeling
Sheirl L. Fletcher
Morgantown

980 One Valley Square
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Susan J. Riggs, Esquire
Executive Secretary

June 1, 1999

Joyce L. McPhail
Chairperson, Chelyan Public Service District
P.O. Box 8
Cabin Creek, WV 25035

Re: Cabin Creek Wastewater Collection System Project 97S-286

Dear Ms. McPhail:

The West Virginia Infrastructure and Jobs Development Council (the "Council"), at its May 5, 1999 meeting, reviewed the Chelyan Public Service District's (the "District") request for additional funding of \$400,000 necessary to fund a cost overrun due to bids higher than the budget estimate for its wastewater collection system project (the "Project"), and to fund other necessary budget variations. The Project, at its original estimated cost of \$5,668,000, has funding commitments of a Small Cities Block Grant of \$1,250,000, a Kanawha County Commission grant of \$1,175,000, a Governor's Office grant of \$1,035,000, a Clean Water State Revolving Fund ("CWSRF") loan of \$2,118,000, and an Infrastructure Fund design loan of \$90,000. The District's request seeks Infrastructure Fund grant dollars of \$400,000 to fund the cost overruns.

The Council has reviewed the funding previously proposed for the Project in order to determine how the cost overrun can be funded without increasing the City's proposed customer rates. The Council understands that the CWSRF program has additional loan funds available for the Project, and by extending the term of the CWSRF loan, such additional loan dollars will not require an increase in the District's proposed customer rates. Accordingly, the Council recommends that the CWSRF loan be increased by \$400,000, for a total CWSRF loan of \$2,518,000 for a term of up to 30 years. The CWSRF program will make the final decision as to the exact term of the loan.

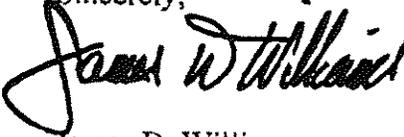
The Council understands that the District will be making every effort to close the Project

Joyce L. McPhail
June 1, 1999
Page 2

financing in July 1999 prior to the expiration of the Project's bids. In the event the District is ready to close the Project financing prior to implementation of the CWSRF extended loan program, the Council has agreed to provide to the District a bond anticipation note of up to \$400,000 with terms and conditions that the bond anticipation note would be canceled immediately upon the issuance of the extended CWSRF bond.

If you have any questions regarding this matter, please contact Susan J. Riggs at the above telephone number.

Sincerely,

A handwritten signature in black ink that reads "James D. Williams". The signature is written in a cursive, flowing style.

James D. Williams

JDW/tb
Enclosure

cc: Mike Johnson, P.E.
H. Wyatt Hanna, III, Esquire
Samme L. Gee, Esquire
Ashok Sanghavi, P.E.



*copy
C. Bloom
& H. Shores
Stephen J. Zoeller*

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

July 27, 1998

Mr. H. Wyatt Hanna, III
512 "D" Street
P. O. Box 8070
South Charleston, West Virginia 25303

Dear Wyatt:

This is to notify you that the Kanawha County Commission has allocated one million dollars for purposes of funding the sewer project at Cabin Creek through the Chelyan Public Service District. This money is set aside in a special fund and is currently available for construction expenses.

Sincerely,

Stephen J. Zoeller
County Manager

SJZ:pc

cc: Commissioner Louis H. Bloom
Commissioner Henry C. Shores
Commissioner W. Kent Carper

KANAWHA COUNTY COMMISSION

Henry C. Shores, President
Louis H. Bloom, Commissioner
W. Kent Carper, Commissioner



Post Office Box 3627
Charleston, West Virginia 25336

Telephone (304) 357-0101
Fax (304) 357-0786

October 29, 1997

VIA FAX

H. Wyatt Hanna, III
HANNA & HANNA
812 Quarrier Street - 4th Floor
Charleston, West Virginia 25328

Dear Wyatt:

The County Commission at its October 23, 1997 meeting allocated \$150,000 from coal severance funds to the Chelyan Public Service District for the purpose of aiding the Public Service District in the completion of the Cabin Creek sewer project. These funds are now available to the District for any purpose that it deems necessary to complete this project as soon as possible.

If you have any questions regarding this funding, please feel free to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Zoeller".

Stephen Zoeller
County Manager

SZ:pc

cc: Commissioner Henry C. Shores, President
Commissioner Louis H. Bloom
Commissioner W. Kent Carper

KANAWHA COUNTY COMMISSION

Henry C. Shores, President
Louis H. Bloom, Commissioner
W. Kent Carper, Commissioner



Post Office Box 3627
Charleston, West Virginia 25306

Telephone (304) 357-0101
FAX (304) 357-0595

RESOLUTION

WHEREAS, the County Commission of Kanawha County, West Virginia, having been apprised that the Cabin Creek area of Kanawha County, consisting of the unincorporated communities of Dry Branch, Ronda, Sharon, Miami, Dawes, Giles, Ohley, Eskdale and Leewood, currently have deficient public sewage treatment and are served by on-site septic tanks and/or direct discharges into Cabin Creek; and

WHEREAS, the lack of proper sewage treatment has caused an epidemic of cases of encephalitis in this area each year; and

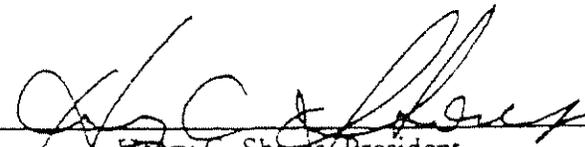
WHEREAS, the Chelyan Public Service District wishes to provide sewer services to this area to eliminate existing health hazards and to improve the quality of life of the area residents; and

WHEREAS, the Kanawha County Commission has agreed to allocate \$25,000.00, contingent upon the receipt of a grant from the Governor's Community Partnership Program in the amount of \$35,000.00, to be used for a preliminary engineering study.

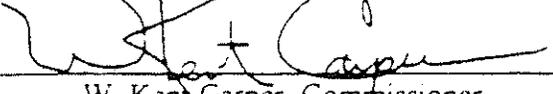
NOW, THEREFORE, BE IT RESOLVED, THAT, the members of the County Commission of Kanawha County, unanimously support the Chelyan Public Service District in their efforts to eliminate this serious health hazard in the Cabin Creek area, and hereby authorize the Regional Development Authority of Charleston, Kanawha County, West Virginia, Metropolitan Region, to prepare and file an application with the Governor's Community Partnership Program for a grant in the amount of \$35,000.00.

Dated this 1st day of August 1996.

96 AUG -5 AM 8:54
KANAWHA COUNTY PLANNING
AND
COMMUNITY DEVELOPMENT


Henry C. Shores, President


Louis H. Bloom, Commissioner


W. Kent Carper, Commissioner



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

1780

2000 01 16 16

CECIL H. UNDERWOOD
GOVERNOR

December 30, 1997

The Honorable Henry C. Shores
President
Kanawha County Commission
Post Office Box 3627
Charleston, West Virginia 25332-3627

Dear Commissioner Shores:

Thank you for your application to the Small Cities Block Grant Program for Fiscal Year 1997.

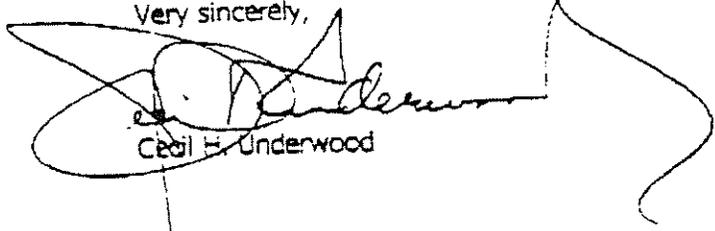
I am pleased to approve your application in the amount of \$1,250,000 to the Kanawha County Commission. These funds will enable you to construct a sewage collection system for the Cabin Creek area of Kanawha County.

In order to most effectively use the limited dollars available, I hereby commit \$1,000,000 from our Fiscal Year 1997 allocation which will be immediately available to you. The remaining \$250,000 necessary to complete this project will be committed from our Fiscal Year 1998 allocation. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind.

The West Virginia Development Office, Community Development Division staff, will contact you to complete the necessary contract in order to proceed with your project.

I am pleased to work with you to make this improvement a reality for the citizens of Cabin Creek.

Very sincerely,



Cecil H. Underwood

CHU:jms



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

CECIL H. UNDERWOOD
GOVERNOR

June 11, 1998

Mr. Louis H. Bloom
President
Kanawha County Commission
Post Office Box 3627
Charleston, West Virginia 25336

Dear Commissioner Bloom:

Thank you for your interest and concern in receiving state assistance for the Chelyan Public Service District sewer project in the Cabin Creek area of Kanawha County.

I am pleased to approve a grant in the amount of \$1,000,000. These funds will be provided as follows: \$500,000 from the Wastewater Facilities-Design and Construction Program and \$500,000 from the Governor's Contingency Fund. This funding will assist in providing sewer service to approximately 650 families in the Cabin Creek area.

I would like to commend the Kanawha County Commission, the Chelyan Public Service District, and the residents of Cabin Creek for working diligently with all agencies involved in reaching a funding solution that will allow this most important project to move forward.

The West Virginia Development Office, Community Development staff, will contact you to complete the necessary contract in order to proceed with your project.

I am pleased to work with you to make this improvement a reality for the citizens of Cabin Creek.

Very sincerely,

A handwritten signature in black ink, appearing to read "Cecil H. Underwood", written over a large, stylized flourish that extends downwards and to the right.

Cecil H. Underwood

CHU:dIm



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

October 22, 1996

GASTON CAPERTON
GOVERNOR

Joyce McPhail, Chairwoman
Cheiyan Public Service District
Post Office Box 8
Cabin Creek, West Virginia 25035-0008

Dear Ms. McPhail:

Enclosed please find a check to the Cheiyan Public Service District for \$35,000 to be used to assist with funding for the Cabin Creek sewer extension project.

I am happy to assist the citizens of your area with this money from my Contingency Fund.

If I or my staff may be of help to you in the future, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink that reads "Gaston Caperton".

Gaston Caperton
Governor

GC:crs

Enclosure

CHELYAN PUBLIC SERVICE DISTRICT

\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER; RATES
7. INCUMBENCY AND OFFICIAL NAME
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. INSURANCE
11. BOND PURCHASE AGREEMENT
12. SPECIMEN BOND
13. CONFLICT OF INTEREST
14. TRUTH AND ACCURACY
15. CLEAN WATER ACT
16. BOND PROCEEDS
17. VERIFICATION OF SCHEDULE A
18. YEAR 2000 COMPLIANCE
19. COUNTERPARTS

We, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of the Chelyan Public Service District (herein called the "District"), and the undersigned ATTORNEY for the District, hereby certify in connection with the single, fully registered Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A, numbered AR-1, dated the date hereof, in the principal amount of \$2,518,000 (herein called the "Bonds"), bearing no interest and subject to the SRF Administration Fee of one-half percent (½%) (the "Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Bond Resolution duly adopted by the Public Service Board (the "Board") of the District on July 8, 1999, and a Supplemental Resolution adopted July 8, 1999, relating to the Bonds (collectively, the "Resolution") and the Bond Purchase Agreement entered into between the District, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment (the "DEP") for the Bonds, dated July 8, 1999 (the "Bond Purchase Agreement").

2. NO LITIGATION: To the best of their knowledge, no controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Board of the District authorized the issuance and sale of the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the District or the title of the members or officers of the District or of the Board thereof to their respective offices; nor questioning the acquisition and construction of certain improvements and extensions to the existing sewerage facilities of the District financed in part by the proceeds of sale of the Bonds (said design herein called the "Project"), nor operation by the District of the existing sewerage facilities (said existing sewerage facilities and any further extensions, additions, improvements or betterments thereto herein collectively called the "System"), nor challenging the collection or use or pledge of the Net Revenues of the System.

3. GOVERNMENTAL APPROVALS: To the best of their knowledge, all applicable approvals and certificates required by law for the acquisition and construction of the Project, operation of the System, and issuance of the Bonds have been duly and timely obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited 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 District since July 8, 1999. Further, there has been no adverse change in the status of any grant necessary to finance the acquisition and construction of the Project.

There are outstanding obligations of the District which will rank on a parity with the Bonds as to liens, pledge and source of and security for payment, which obligations are designated and have the lien positions on the Net Revenues of the System with respect to the Bonds as follows:

| <u>Designation</u> | <u>Lien Position</u> |
|--|----------------------|
| Sewerage System Revenue Bonds dated September 13, 1979 and issued in the aggregate principal amount of \$822,100 | First Lien |
| Sewerage System Revenue Bonds dated April 22, 1994 and issued in the aggregate principal amount of \$1,023,500 | First Lien |
| Sewerage System Revenue Bonds dated April 22, 1994 and issued in the aggregate principal amount of \$175,276 | First Lien |

Sewerage System Revenue Bonds dated
June 29, 1995 and issued in the
aggregate principal amount of \$634,000

First Lien

The above-referenced outstanding bonds are hereinafter collectively called the "Prior Bonds." The Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The District has met the coverage requirements for issuance of parity bonds of the Prior Bonds and the resolutions authorizing the prior Bonds and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The District has received a certificate of an independent certified public accountant to the effect that the parity test set forth in the resolutions authorizing the Prior Bonds has been met. Other than the Prior Bonds, there are no outstanding bonds or obligations of the District which are secured by revenues of the System.

5. SIGNATURES: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and serving officers of the Board of the District as indicated by the official titles opposite their signatures below, and were duly authorized to execute and seal the Bonds for the District. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and the only seal of the District.

6. PUBLIC SERVICE COMMISSION ORDER; RATES: The undersigned Attorney hereby certifies that the District has filed any information with the Public Service Commission (the "PSC") and taken all other action required to maintain the Commission Order in Case No. 98-0639-PSD-CN approving the financing of the Project. The Commission Order is in full force and effect.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the District is "Chelyan Public Service District," and it is a public corporation 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 District is its Public Service Board, consisting of three (3) members, whose names and dates of commencement and termination of terms of office during these Bond proceedings are as follows:

| <u>Name</u> | <u>Title</u> | <u>Date of Termination of Office</u> |
|-----------------------|--------------|--------------------------------------|
| Joyce McPhail | Chairperson | August 1, 1999 |
| Samuel Lamont Shelton | Secretary | August 1, 2000 |
| Jerry W. Jessie | Member | August 1, 2003 |

H. Wyatt Hanna, III, Esquire, South Charleston, West Virginia, whose signature appears hereon, is the duly appointed and acting Attorney for the District

8. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction 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 District, 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 District to pay for the same without jeopardizing the security of or payments on the Bonds.

9. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the District in any way connected with the acquisition and construction of the Project were authorized or adopted at meetings of the Board duly and regularly or specially 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.

10. INSURANCE: The District has covenanted that it will maintain or, as appropriate, will require all contractors to, maintain Worker's 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 Bond Purchase Agreement.

11. BOND PURCHASE AGREEMENT: As of the date hereof, (i) the representations of the District contained in the Bond Purchase Agreement are true and correct in all material respects; (ii) the Bond Purchase Agreement does not contain any untrue statement 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; and (iii) to the best knowledge of the undersigned, no event affecting the District has occurred 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.

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

13. CONFLICT OF INTEREST: No officer or employee of the District has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the District and the sale of any land, materials, supplies or services to the District, or to any contractor supplying the District, relating to the Bonds, the

authorizing document 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.

14. TRUTH AND ACCURACY: As of the date hereof, Joyce McPhail and Samuel L. Shelton, Secretary, hereby certify that the copies of documents previously or on the date hereof certified by them as being true and accurate are true and accurate as of the date hereof and that none of such documents has been repealed, rescinded, amended or otherwise modified.

15. CLEAN WATER ACT: The Project as described in the Bond Resolution complies with Sections 208 and 303(e) of the Clean Water Act.

16. BOND PROCEEDS: On the date hereof, the District received from the Authority and the DEP \$125,900, being a portion of the Bonds and more than a de minimis amount of the proceeds of the Bonds. The balance of the principal amount of the Bonds will be advanced to the District as requisitioned for costs of the acquisition and construction of the Project.

17. VERIFICATION OF SCHEDULE A: The final amended Schedule A to the SRF Loan Application, with the signature of the Chairperson dated July, 1999, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project, and the costs of financing.

18. YEAR 2000 COMPLIANCE: The District represents that it has undertaken or will undertake an investigation to determine whether the operations of the System, including but not limited to any billing, collection and inventory computer programs of the System and any electronic or mechanical components of the System's wastewater collection and treatment facilities, are Year 2000 Compliant. The District further represents that if it determines as a result of this investigation that any Mission-Critical Component of the System is not Year 2000 Compliant, the District (i) will take timely and affirmative action to repair or replace any such component, and (ii) will perform adequate testing to ensure the sound operation and Year 2000 Compliant status of the repaired or replaced component. For purpose of this paragraph, "Year 2000 Compliant" means, with respect to the information technology the District uses or will use in the operation of the System (including any date-sensitive microprocessors embedded in electronic or mechanical components of the System), the information technology is designed to be used prior to, during and after calendar Year 2000 A.D., and the information technology used during each such time period will accurately receive, provide and process date-time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, including the years 1999 and 2000, and leap-year calculations, and will not malfunction, cease to function, or provide invalid or incorrect results as a result of date-time data. For purposes of this paragraph, "Mission-Critical Component" means any component of the System that would be critical to (a) the System's continued operation after

January 1, 2000; (b) the District's ability to continue to bill its customers and collect amounts billed from those customers after January 1, 2000; or (c) the District's ability to make all principal and interest payments for the Bonds contemplated by the Ordinance as and when they become due.

19. COUNTERPARTS: This Certificate may be executed in counterpart and such parts shall be deemed to be the Certificate.

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

WITNESS our signatures and the official corporate seal of the Chelyan Public Service District on this 15th day of July, 1999.

[SEAL]

| <u>Signature</u> | <u>Official Title</u> |
|------------------------------|-----------------------|
| <u>Joyce McPhail</u> | Chairperson |
| <u>Samuel L. Shelton</u> | Secretary |
| <u>H. Wyatt A. [unclear]</u> | Attorney |

CHASFS3:126407

EXHIBIT A
(SPECIMEN BOND)

CHASFS3:126407

NUMBER
AR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF KANAWHA
CHELYAN PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

No. AR-1

\$2,518,000

KNOW ALL MEN BY THESE PRESENTS: That CHELYAN PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws 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 Two Million Five Hundred Eighteen Thousand Dollars (\$2,518,000), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 in each year beginning June 1, 2001, with no interest. The payment of principal of this Bond shall be as set forth on the "Schedule of Debt Service" attached as Exhibit B hereto and incorporated herein by reference. The SRF Administrative Fee (as defined in the hereinafter-described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning June 1, 2001, as set forth on Exhibit B.

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 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 Paying Agent.

SPECIMEN

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 as otherwise provided by the Bond Purchase Agreement dated July 8, 1999 by and among the Authority, the DEP and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing wastewater collection and treatment system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and 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 enacted by the Issuer on July 8, 1999, and a Supplemental Resolution adopted by the Issuer on July 8, 1999 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution 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 Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN ON AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED SEPTEMBER 13, 1979 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$822,100; THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED APRIL 22, 1994 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,023,500; THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED APRIL 22, 1994 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$175,276; AND THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS DATED JUNE 29, 1995 AND ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$634,000 (THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Prior Bonds, to be derived from the operation of the System, moneys in the Series 1999 A Reserve Account created under the Resolution 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 or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Series 1999 A Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, 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 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 amount required

SPECIMEN

to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1999 A Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount 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 Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of The City National Bank of West Virginia, Charleston, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided 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 Resolution 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 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 Resolution and the 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.

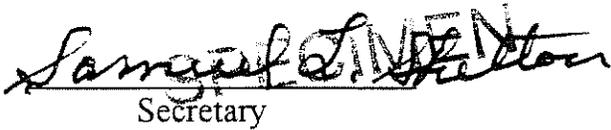
SPECIMEN

IN WITNESS WHEREOF, CHELYAN PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the 15th day of July, 1999.

[SEAL]


Chairperson

ATTEST:


Secretary

NUMBER
AR-1

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

THE CITY NATIONAL BANK
OF WEST VIRGINIA
As Registrar

SPECIMEN

By

Charles E. McKinney

Its Authorized Officer

Dated: July 15, 1999

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

| Amount | Date | Amount | Date |
|---------------|---------------|---------|------|
| (1) \$125,900 | July 15, 1999 | (7) \$ | |
| (2) \$ | | (8) \$ | |
| (3) \$ | | (9) \$ | |
| (4) \$ | | (10) \$ | |
| (5) \$ | | (11) \$ | |
| (6) \$ | | (12) \$ | |

Total \$ _____

SPECIMEN

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

| Date | Principal | Coupon | Total P+I |
|------------|-----------|--------|-----------|
| 9/01/1999 | - | - | - |
| 12/01/1999 | - | - | - |
| 3/01/2000 | - | - | - |
| 6/01/2000 | - | - | - |
| 9/01/2000 | - | - | - |
| 12/01/2000 | - | - | - |
| 3/01/2001 | - | - | - |
| 6/01/2001 | 20,984.00 | - | 20,984.00 |
| 9/01/2001 | 20,984.00 | - | 20,984.00 |
| 12/01/2001 | 20,984.00 | - | 20,984.00 |
| 3/01/2002 | 20,984.00 | - | 20,984.00 |
| 6/01/2002 | 20,984.00 | - | 20,984.00 |
| 9/01/2002 | 20,984.00 | - | 20,984.00 |
| 12/01/2002 | 20,984.00 | - | 20,984.00 |
| 3/01/2003 | 20,984.00 | - | 20,984.00 |
| 6/01/2003 | 20,984.00 | - | 20,984.00 |
| 9/01/2003 | 20,984.00 | - | 20,984.00 |
| 12/01/2003 | 20,984.00 | - | 20,984.00 |
| 3/01/2004 | 20,984.00 | - | 20,984.00 |
| 6/01/2004 | 20,984.00 | - | 20,984.00 |
| 9/01/2004 | 20,984.00 | - | 20,984.00 |
| 12/01/2004 | 20,984.00 | - | 20,984.00 |
| 3/01/2005 | 20,984.00 | - | 20,984.00 |
| 6/01/2005 | 20,984.00 | - | 20,984.00 |
| 9/01/2005 | 20,984.00 | - | 20,984.00 |
| 12/01/2005 | 20,984.00 | - | 20,984.00 |
| 3/01/2006 | 20,984.00 | - | 20,984.00 |
| 6/01/2006 | 20,984.00 | - | 20,984.00 |
| 9/01/2006 | 20,984.00 | - | 20,984.00 |
| 12/01/2006 | 20,984.00 | - | 20,984.00 |
| 3/01/2007 | 20,984.00 | - | 20,984.00 |
| 6/01/2007 | 20,984.00 | - | 20,984.00 |
| 9/01/2007 | 20,984.00 | - | 20,984.00 |
| 12/01/2007 | 20,984.00 | - | 20,984.00 |
| 3/01/2008 | 20,984.00 | - | 20,984.00 |
| 6/01/2008 | 20,984.00 | - | 20,984.00 |
| 9/01/2008 | 20,984.00 | - | 20,984.00 |
| 12/01/2008 | 20,984.00 | - | 20,984.00 |
| 3/01/2009 | 20,984.00 | - | 20,984.00 |
| 6/01/2009 | 20,984.00 | - | 20,984.00 |
| 9/01/2009 | 20,984.00 | - | 20,984.00 |
| 12/01/2009 | 20,984.00 | - | 20,984.00 |
| 3/01/2010 | 20,984.00 | - | 20,984.00 |
| 6/01/2010 | 20,984.00 | - | 20,984.00 |
| 9/01/2010 | 20,984.00 | - | 20,984.00 |
| 12/01/2010 | 20,984.00 | - | 20,984.00 |
| 3/01/2011 | 20,984.00 | - | 20,984.00 |
| 6/01/2011 | 20,983.00 | - | 20,983.00 |
| 9/01/2011 | 20,983.00 | - | 20,983.00 |
| 12/01/2011 | 20,983.00 | - | 20,983.00 |
| 3/01/2012 | 20,983.00 | - | 20,983.00 |
| 6/01/2012 | 20,983.00 | - | 20,983.00 |
| 9/01/2012 | 20,983.00 | - | 20,983.00 |
| 12/01/2012 | 20,983.00 | - | 20,983.00 |
| 3/01/2013 | 20,983.00 | - | 20,983.00 |
| 6/01/2013 | 20,983.00 | - | 20,983.00 |
| 9/01/2013 | 20,983.00 | - | 20,983.00 |
| 12/01/2013 | 20,983.00 | - | 20,983.00 |
| 3/01/2014 | 20,983.00 | - | 20,983.00 |
| 6/01/2014 | 20,983.00 | - | 20,983.00 |
| 9/01/2014 | 20,983.00 | - | 20,983.00 |
| 12/01/2014 | 20,983.00 | - | 20,983.00 |
| 3/01/2015 | 20,983.00 | - | 20,983.00 |
| 6/01/2015 | 20,983.00 | - | 20,983.00 |

SPECIMEN

SCHEDULE OF ANNUAL DEBT SERVICE

| | | | |
|--------------|---------------------|----------|-----------------------|
| 9/01/2015 | 20,983.00 | - | 20,983.00 |
| 12/01/2015 | 20,983.00 | - | 20,983.00 |
| 3/01/2016 | 20,983.00 | - | 20,983.00 |
| 6/01/2016 | 20,983.00 | - | 20,983.00 |
| 9/01/2016 | 20,983.00 | - | 20,983.00 |
| 12/01/2016 | 20,983.00 | - | 20,983.00 |
| 3/01/2017 | 20,983.00 | - | 20,983.00 |
| 6/01/2017 | 20,983.00 | - | 20,983.00 |
| 9/01/2017 | 20,983.00 | - | 20,983.00 |
| 12/01/2017 | 20,983.00 | - | 20,983.00 |
| 3/01/2018 | 20,983.00 | - | 20,983.00 |
| 6/01/2018 | 20,983.00 | - | 20,983.00 |
| 9/01/2018 | 20,983.00 | - | 20,983.00 |
| 12/01/2018 | 20,983.00 | - | 20,983.00 |
| 3/01/2019 | 20,983.00 | - | 20,983.00 |
| 6/01/2019 | 20,983.00 | - | 20,983.00 |
| 9/01/2019 | 20,983.00 | - | 20,983.00 |
| 12/01/2019 | 20,983.00 | - | 20,983.00 |
| 3/01/2020 | 20,983.00 | - | 20,983.00 |
| 6/01/2020 | 20,983.00 | - | 20,983.00 |
| 9/01/2020 | 20,983.00 | - | 20,983.00 |
| 12/01/2020 | 20,983.00 | - | 20,983.00 |
| 3/01/2021 | 20,983.00 | - | 20,983.00 |
| 6/01/2021 | 20,983.00 | - | 20,983.00 |
| 9/01/2021 | 20,983.00 | - | 20,983.00 |
| 12/01/2021 | 20,983.00 | - | 20,983.00 |
| 3/01/2022 | 20,983.00 | - | 20,983.00 |
| 6/01/2022 | 20,983.00 | - | 20,983.00 |
| 9/01/2022 | 20,983.00 | - | 20,983.00 |
| 12/01/2022 | 20,983.00 | - | 20,983.00 |
| 3/01/2023 | 20,983.00 | - | 20,983.00 |
| 6/01/2023 | 20,983.00 | - | 20,983.00 |
| 9/01/2023 | 20,983.00 | - | 20,983.00 |
| 12/01/2023 | 20,983.00 | - | 20,983.00 |
| 3/01/2024 | 20,983.00 | - | 20,983.00 |
| 6/01/2024 | 20,983.00 | - | 20,983.00 |
| 9/01/2024 | 20,983.00 | - | 20,983.00 |
| 12/01/2024 | 20,983.00 | - | 20,983.00 |
| 3/01/2025 | 20,983.00 | - | 20,983.00 |
| 6/01/2025 | 20,983.00 | - | 20,983.00 |
| 9/01/2025 | 20,983.00 | - | 20,983.00 |
| 12/01/2025 | 20,983.00 | - | 20,983.00 |
| 3/01/2026 | 20,983.00 | - | 20,983.00 |
| 6/01/2026 | 20,983.00 | - | 20,983.00 |
| 9/01/2026 | 20,983.00 | - | 20,983.00 |
| 12/01/2026 | 20,983.00 | - | 20,983.00 |
| 3/01/2027 | 20,983.00 | - | 20,983.00 |
| 6/01/2027 | 20,983.00 | - | 20,983.00 |
| 9/01/2027 | 20,983.00 | - | 20,983.00 |
| 12/01/2027 | 20,983.00 | - | 20,983.00 |
| 3/01/2028 | 20,983.00 | - | 20,983.00 |
| 6/01/2028 | 20,983.00 | - | 20,983.00 |
| 9/01/2028 | 20,983.00 | - | 20,983.00 |
| 12/01/2028 | 20,983.00 | - | 20,983.00 |
| 3/01/2029 | 20,983.00 | - | 20,983.00 |
| 6/01/2029 | 20,983.00 | - | 20,983.00 |
| 9/01/2029 | 20,983.00 | - | 20,983.00 |
| 12/01/2029 | 20,983.00 | - | 20,983.00 |
| 3/01/2030 | 20,983.00 | - | 20,983.00 |
| 6/01/2030 | 20,983.00 | - | 20,983.00 |
| 9/01/2030 | 20,983.00 | - | 20,983.00 |
| 12/01/2030 | 20,983.00 | - | 20,983.00 |
| 3/01/2031 | 20,983.00 | - | 20,983.00 |
| Total | 2,518,000.00 | - | 2,518,000.00 * |

*Plus one-half percent administrative fee of \$1,586.85 paid quarterly.
Total administrative fee paid over the life of the loan is \$190,422.

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.

Dated: _____, ____.

In the presence of:

CHELYAN PUBLIC SERVICE DISTRICT

\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

CERTIFICATE OF SECRETARY AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned Samuel L. Shelton, Secretary of the Public Service Board (the "Board") of Chelyan Public Service District (the "District"), hereby certify that the copies of the following documents being delivered in connection with the closing of the Chelyan Public Service District's sale of \$2,518,000 Sewerage System Revenue Bonds, Series 1999 A (the "Bonds"), 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, that said documents have been duly adopted or entered by the Board, 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:

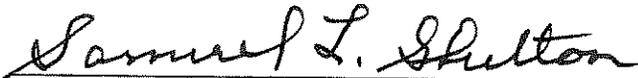
1. Rules of Procedure.
2. Order of The County Commission of Kanawha County (the "County Commission") creating the District.
3. Orders of the County Commission appointing current Board members.
4. Oaths of Office of Board members.
5. Minutes of the 1999 Organizational meeting.
6. Bond Purchase Agreement, dated July 8, 1999.
7. Excerpts from the minutes of the July 8, 1999, meeting of the Board, wherein the Bond Resolution and the Supplemental Resolution with respect to the Bonds were adopted.
8. Bond Resolution.
9. Supplemental Resolution.
10. Commission Orders of the Public Service Commission of West Virginia (the "Commission") approving the financing.

Letter.

11. West Virginia Infrastructure and Jobs Development Council Approval
12. Evidence of grant from the County Commission of Kanawha County.
13. Evidence of Small Cities Block Grant.
14. Evidence of Governor's Partnership Grant.

[Remainder of Page Intentionally Left Blank]

WITNESS my signature and the official seal of the Chelyan Public Service District as of the 15th day of July, 1999.


Secretary, Public Service Board,
Chelyan Public Service District

(SEAL)

CHASFS3:126412

CHELYAN PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

CERTIFICATE OF CONSULTING ENGINEER

I, Ashok Sanghavi, Registered Professional Engineer, West Virginia License No. 6177, of S & S Engineers, Inc., Consulting Engineers, Charleston, West Virginia,, hereby certify as follows:

1. My firm is engineer for the acquisition and construction of certain additions, betterments and improvements to the existing public sewerage system (the "Project") of Chelyan Public Service District (the "Issuer") to be constructed primarily in Kanawha County, West Virginia, which acquisition and construction are being permanently financed, in part, by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words not defined herein shall have the meanings set forth in the Bond Resolution adopted by the Issuer on July 8, 1999, and the Bond Purchase Agreement between the Issuer, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP") dated July 8, 1999 (the "Loan Agreement").

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of the acquisition and construction of certain additions, betterments and improvements to the existing public sewerage facilities of the Issuer 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 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 30 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 A attached hereto as Exhibit A and, based on the legal opinion of Hanna & Bonham of even date herewith, all successful bidder(s) 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; (iv) the successful bidder(s) 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 form(s) provided to the bidders contain all critical operational components of the Project; (vi) the successful bid(s) include prices for every item on such bid form(s); (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, and in reliance upon the certificate of Smith, Cochran &

Hicks of even date herewith, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of Subsections 4.1(a) and 4.1(b) (ii) 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 approved by DEP; and (xi) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature and seal on this 15th day of July, 1999.

[SEAL]



S & S ENGINEERS, INC.

By: *Ashok Sanghavi*
Ashok Sanghavi, P.E.
West Virginia License No. 6177

149185

CHELYAN PUBLIC SERVICE DISTRICT, WEST VIRGINIA

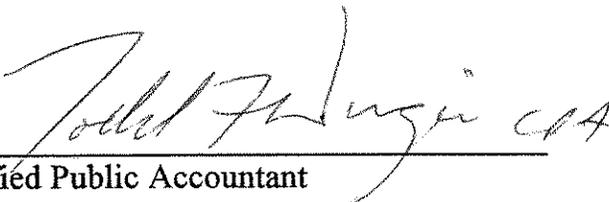
\$2,518,000 Sewerage System Revenue Bonds, Series 1999

CERTIFICATE OF ACCOUNTANT AS TO PARITY

I, Todd Dingess, Certified Public Accountant, of Smith, Cochran & Hicks, Charleston, West Virginia, have reviewed the sewer service rates which were approved by the Public Service Commission of West Virginia for Chelyan Public Service District (the "District") and the customer usage information prepared by S&S Engineers, Inc., the District's consulting engineer (the "Consulting Engineer") for the District's sewerage system (the "System").

Based upon my investigation and the information provided by the Consulting Engineer, it is my opinion that the net revenues actually derived from the System during the fiscal year immediately preceding the date of the issuance of the District's Sewerage System Revenue Bonds, Series 1999 A (the "Bonds"), will not be less than one hundred fifteen per cent (115%) of the average aggregate amount which will mature or become due in any succeeding fiscal year for principal of and interest on the Bonds to be issued and the Prior Bonds then outstanding (as that term is defined in the District's Bond Resolution adopted on July 8, 1999). In making this certification, I have relied on the fact that the United States Department of Agriculture, Rural Utilities Service, the registered owner of the District's Series 1979 Bonds, has agreed to reduce the parity requirement stated in the Series 1979 Resolution from 120% to 115%.

WITNESS my signature as of this 15th day of July, 1999.



Certified Public Accountant

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 15th day of July, 1999, by and between CHELYAN PUBLIC SERVICE DISTRICT, a public corporation organized and existing under the laws of, and a political subdivision of, the State of West Virginia (the "Governmental Agency"), and THE CITY NATIONAL BANK OF WEST VIRGINIA, Charleston, West Virginia, a national banking association (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its \$2,518,000 Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A (the "Bonds"), in the form of one bond numbered R-1, pursuant to the Bond Resolution and a Supplemental Resolution duly adopted July 8, 1999 (the "Resolutions");

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 Resolutions, copies of which are attached as Exhibit A and B hereto and incorporated herein by reference;

WHEREAS, the Resolutions provide for an appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Resolutions and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolutions 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 Governmental Agency and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Resolutions, such duties including, among other things, the duties to authenticate, register and deliver the Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, 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 Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency 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 Governmental Agency 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 Governmental Agency.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Governmental Agency hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed schedule and reimbursement for reasonable expenses incurred in connection with this Registrar's Agreement.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Resolution, the terms of the Resolutions shall govern.

6. The Governmental Agency and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Resolution will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

GOVERNMENTAL AGENCY:

Chelyan Public Service District
P. O. Box 8
Cabin Creek, WV 25035
Attention: Chairperson

REGISTRAR:

The City National Bank of West Virginia
P. O. Box 4168
Charleston, WV 25364
Attention: Trust Department

8. The Registrar is hereby requested and authorized to authenticate and deliver the Bonds in accordance with the Resolution.

IN WITNESS WHEREOF, CHELYAN PUBLIC SERVICE DISTRICT and THE CITY NATIONAL BANK OF WEST VIRGINIA, have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the day and year first above-written.

CHELYAN PUBLIC SERVICE DISTRICT

By: 
Chairperson, Public Service Board

THE CITY NATIONAL BANK OF WEST VIRGINIA
as Registrar

By: 
Charles E. Wilkinson, Trust Officer

CHASFS3:126417

EXHIBIT A

BOND RESOLUTION

(See Tab No. 9)

EXHIBIT B

SUPPLEMENTAL RESOLUTION

(See Tab No. 10)

CHELYAN PUBLIC SERVICE DISTRICT

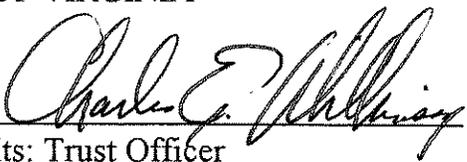
\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

The City National Bank of West Virginia, a national banking association with its principal office in Charleston, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution duly adopted by Board of the Chelyan Public Service District on July 8, 1999, and the Supplemental Resolution adopted July 8, 1999 (collectively, the "Resolution"), authorizing issuance of Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A, dated July 15, 1999, in the aggregate principal amount of \$2,518,000, and agrees to perform all duties of the Depository Bank in connection with such Bonds, all as set forth in said Resolution.

Witness my signature as of the 15th day of July, 1999.

THE CITY NATIONAL BANK OF
WEST VIRGINIA

By: 
Its: Trust Officer

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION
AND DELIVERY OF THE BONDS

July 15, 1999

The City National Bank of West Virginia
P. O. Box 4168
Charleston, WV 25304

Ladies and Gentlemen:

We herewith hand to you, duly executed, \$2,518,000 Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A, in the form of one bond numbered AR-1, authorized to be issued under and pursuant to the Bond Resolution, duly adopted by the Public Service Board (the "Board") of Chelyan Public Service District (the "District") on July 8, 1999, and a Supplemental Resolution adopted by the Board on July 8, 1999 (collectively, the "Resolution").

You are hereby requested and authorized to register, authenticate and deliver the Bonds on behalf of the District to the West Virginia Water Development Authority.

CHELYAN PUBLIC SERVICE DISTRICT

By Joyce McPhail
Joyce McPhail, Chairperson, Public Service Board

(SEAL)

Attest:

Samuel L. Shelton
Secretary, Public Service Board

CHELYAN PUBLIC SERVICE DISTRICT

\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

CERTIFICATE OF REGISTRATION OF BONDS

I, Charles E. Wilkinson, Trust Officer for The City National Bank of West Virginia in Charleston, West Virginia, as Bond Registrar (the "Registrar"), hereby certify that on the 15th day of July, 1999, the Bond of Chelyan Public Service District in the principal amount of \$2,518,000 designated "Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A" (the "Bonds"), numbered AR-1, and dated as of the date hereof, was registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the District kept for that purpose at our office, by a duly authorized officer on behalf of The City National Bank of West Virginia, as Registrar.

WITNESS my signature as of the 15th day of July, 1999.

THE CITY NATIONAL BANK OF
WEST VIRGINIA

By:


Its: Trust Officer

CHELYAN PUBLIC SERVICE DISTRICT

\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

RECEIPT FOR BONDS

The undersigned, BARBARA B. MEADOWS, Secretary-Treasurer of the West Virginia Water Development Authority, for and on behalf of the West Virginia Water Development Authority (the "Authority"), hereby certifies as follows:

1. On the 15th day of July, 1999, in Charleston, West Virginia, the Authority received the entire original issue of \$2,518,000 in aggregate principal amount of the Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A (the "Bonds"), said Bond being dated the 15th day of July, 1999; and issued in the form of one bond, fully registered to the Authority, and numbered AR-1.

2. At the time of receipt of such Bond, it had been executed by Joyce McPhail, as Chairperson of the Public Service Board of the District, by manual signature, and attested by Samuel L. Shelton, as Secretary of the Public Service Board of the District, by manual signature, and the official seal of said District had been impressed upon each Bond.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 15th day of July, 1999.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Barbara B Meadows
Barbara B. Meadows, Secretary-Treasurer



CHELYAN PUBLIC SERVICE DISTRICT

\$2,518,000 Sewerage System Revenue Bonds, Series 1999 A

RECEIPT FOR BOND PROCEEDS

The undersigned, Samuel L. Shelton, Secretary of the Public Service Board of the Chelyan Public Service District (the "District"), hereby certifies as follows:

The District has received and hereby acknowledges receipt from the Authority, as original purchaser of the \$2,518,000 Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A (the "Bonds"), of \$125,900, which was advanced at closing with the remainder to be advanced from time to time up to \$2,518,000.

IN WITNESS WHEREOF, Chelyan Public Service District has caused this receipt to be executed by the Secretary of its Public Service Board on this 15th day of July, 1999.

CHELYAN PUBLIC SERVICE DISTRICT

By Samuel L. Shelton
Secretary, Public Service Board

WV MUNICIPAL BOND COMMISSION

Suite 300 - L & S Building
812 Quarrier Street, Charleston, WV 25301
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: July 15, 1999

ISSUE: \$2,518,000 Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999A (WV SRF Extended Bond Purchase Program)

ADDRESS: P.O. Box 8, Cabin Creek, WV 25035 COUNTY: Kanawha

PURPOSE OF ISSUE: New Money Refunding Refunds issue(s) dated: _____

ISSUE DATE: July 15, 1999 CLOSING DATE: July 15, 1999

ISSUE AMOUNT: \$2,518,000 RATE: 0% ADM. FEE: 1/2%

1st DEBT SERVICE DUE: June 1, 2001 1st PRINCIPAL DUE: June 1, 2001

1st DEBT SERVICE AMOUNT: \$20,984.00 PAYING AGENT: WV Municipal Bond Commission

ISSUERS

BOND COUNSEL: Jackson & Kelly
Contact Person: Christopher L. Callas, Esq.
Phone: (304) 340-1251

UNDERWRITERS

BOND COUNSEL: N/A
Contact Person: _____
Phone: _____

CLOSING BANK: The City National Bank
Contact Person: Charles E. Wilkinson
Phone: (304) 926-3301

ESCROW TRUSTEE: N/A
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Joyce McPhail
Position: Chairperson
Phone: (304) 595-2203

OTHER: _____
Contact Person: _____
Function: _____
Phone: _____

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____
_____ Capitalized Interest: \$ _____
By _____ Wire _____ Reserve Account: \$ _____
_____ Check _____ Other: _____ \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____ To Escrow Trustee: \$ _____
_____ Check _____ To Issuer: \$ _____
_____ IGT _____ To Cons. Invest. Fund \$ _____
_____ To Other: _____ \$ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____
Transfers Required: _____

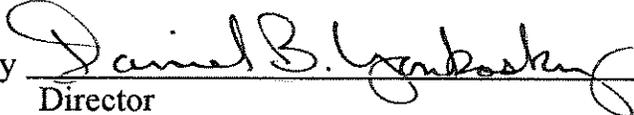
CHELYAN PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

CONSENT TO THE ISSUANCE OF ADDITIONAL INDEBTEDNESS

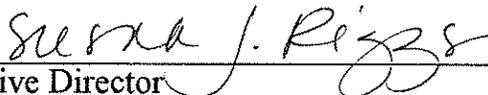
The undersigned Daniel B. Yonkosky, Director of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, and the undersigned Susan J. Riggs, Executive Director of the West Virginia Infrastructure and Jobs Development Council (the "Council"), for and on behalf of the Council, hereby consent to the issuance of the above-referenced bonds of Chelyan Public Service District (the "Issuer"). This consent is executed pursuant to Section 3.13 of the Note Resolution adopted by the Public Service Board of the Issuer on July 9, 1999 in connection with the issuance of the Issuer's \$90,000 Sewerage System Design Note, Series 1998 A.

IN WITNESS WHEREOF, Daniel B. Yonkosky and Susan J. Riggs duly signed and delivered this consent as of July 15, 1999.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By 
Director

WEST VIRGINIA INFRASTRUCTURE AND
JOBS DEVELOPMENT COUNCIL

By 
Executive Director



United States
Department of
Agriculture

Rural Development

Federal Building, Room 320
75 High Street
Morgantown, WV 26505
Telephone: (304) 291-4796
Fax: (304) 291-4159
TTY/TDD: (304) 284-5941

CHELYAN PUBLIC SERVICE DISTRICT
Sewerage System Convertible Revenue Bonds
(West Virginia SRF Program)
Series 1999 A

CONSENT TO ISSUANCE OF PARITY BOND

United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), as the registered owner of all the \$822,100 Sewerage System Revenue Bond, Series 1979, issued pursuant to a resolution adopted September 13, 1979 (the "Prior Bond"), hereby consents to the issuance by the Chelyan Public Service District, Chelyan, West Virginia (the "District"), of not more than \$2,518,000 in aggregate principal amount of Sewerage System Revenue Bonds (the "Bonds") to be sold in one or more series to the West Virginia Water Development Authority. The Government hereby further consents that the Bonds may be payable from the revenues of the sewer system of the District and otherwise secured on a parity with the Prior Bond. This consent is given pursuant to Section 4.05 of the Prior Resolution authorizing the Prior Bond. The Government hereby waives the 120% coverage requirement to 115%.

By the execution of this consent, the undersigned hereby certifies that he is fully empowered and authorized to execute this consent on behalf of the Government.

WITNESS my signature this 11th day of June, 1999.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF AGRICULTURE,
RURAL DEVELOPMENT

By: _____

ROBERT D. LEWIS

State Director

JACKSON & KELLY PLLC

ATTORNEYS AT LAW

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July 15, 1999

4.1

Public Service Board
Chelyan Public Service District
P.O. Box 8
Cabin Creek, West Virginia 25035

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25305

State of West Virginia
Division of Environmental Protection
Office of Water Resources
617 Broad Street
Charleston, West Virginia 25301

Re: \$2,518,000 Chelyan Public Service District
Sewerage System Revenue Bonds, Series 1999 A

Ladies and Gentlemen:

We are bond counsel to Chelyan Public Service District (the "Governmental Agency"), a duly organized and presently existing public corporation under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a Bond Purchase Agreement dated July 8, 1999, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and among the Governmental Agency, the West Virginia Water Development Authority (the "Authority") and the West Virginia Division of Environmental Protection ("DEP"), and (ii) the issue of the Chelyan Public Service District Sewerage System Revenue Bonds, Series 1999 A, of the Governmental Agency, dated July 15, 1999 (the "Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are in the principal amount of \$2,518,000, issued in the form of one bond registered to the Authority, with principal payable March 1, June 1, September 1 and December 1 of each year, beginning June 1, 2001, and interest at the rate of zero percent (0%) per annum, as set forth in

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West Virginia Water Development Authority
West Virginia Division of Environmental Protection
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"Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued for the purposes of (i) paying a portion of the costs of the acquisition and construction of certain additions, betterments and improvements to the existing public sewerage facilities of the Governmental Agency (the "Project") and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Local Statute"), under which the Bonds are issued, and the Loan Agreement that has been undertaken. The Bonds have been authorized by a bond resolution (the "Resolution") and a supplemental resolution (the "Supplemental Resolution") duly adopted by the Governmental Agency on July 8, 1999 (collectively the "Local Act"), which contain provisions and covenants substantially in the form of those set forth in the Loan Agreement. The 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 DEP and cannot be amended so as to affect adversely the rights of the Authority or DEP or diminish the obligations of the Governmental Agency without the consent of the Authority and DEP.
3. The Governmental Agency is a duly organized and presently existing public corporation with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Bonds, all under the Local Statute and other applicable provisions of law.
4. The Governmental Agency has legally and effectively adopted the Local Act and all other necessary resolutions and orders in connection with the issuance and sale of the Bonds.

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5. The Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the net revenues of the System referred to in the Local Act and secured by a first lien on and pledge of the net revenues of said System on a parity with the Prior Bonds, as defined in the Local Act.

6. The Governmental Agency has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Local Act.

7. The Bonds are, by the Local Statute, exempt from all taxation by the State of West Virginia and the other taxing bodies of the State.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed Series 1999 A Bond numbered AR-1, and in our opinion the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

HANNA & BONHAM
ATTORNEYS AT LAW

H. WYATT HANNA, III
LARRY M. BONHAM

512 D STREET
P. O. BOX 8070
SOUTH CHARLESTON, WV 25303
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July 15, 1999

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Office of Water Resources
617 Broad Street
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WV Water Development Authority
180 Association Drive
Charleston, WV 25311-1571

Jackson & Kelly, PLLC
P.O. Box 553
Charleston, WV 25322

Re: Chelyan Public Service District
\$2,518,000 Sewerage System Revenue Bonds,
Series 1999 A

Ladies and Gentlemen:

I am Counsel to Chelyan Public Service District, Kanawha County, West Virginia (the "Issuer"). As such, I have examined copies of the approving opinions of Jackson & Kelly, PLLC, as Bond Counsel, relating to the above captioned bonds of the Issuer (the "Bonds"), the Bond Purchase Agreement by and among the West Virginia Water Development Authority (the "Authority"), the West Virginia Division of Environmental Protection (the "DEP"), and the Issuer dated July 13, 1999, for the Bonds; a Bond Resolution duly adopted by the Public Service Board (the "Board") of the Issuer on July 8, 1999, as supplemented by a Supplemental Resolution adopted on July 8, 1999 (collectively, the "Resolution"); and other documents relating to the Bonds. Terms used and not otherwise defined in this opinion shall have the same meanings assigned to such terms in the Resolution.

I am of the opinion that:

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WV Water Development Authority
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1. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority and the DEP, constitute a valid and binding agreement of the Issuer in accordance with its terms.

2. The officers and members of the Board were duly and properly elected or appointed and are thereby authorized to act on behalf of the Issuer.

3. The Resolution has been duly enacted by the Board of the Issuer and is in full force and effect.

4. The execution and delivery of the Bonds and the Loan Agreement, the consummation of the transactions contemplated by the Loan Agreement 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 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.

5. The Issuer has received all the necessary permits, licenses, approvals and authorizations regarding the construction of the Project.

6. The Issuer has received from the Public Service Commission (the "PSC") a Commission Order dated June 9, 1999, as amended by a further Commission Order dated July 9, 1999, in Case No. 98-0639-PSD-CN, granting the Issuer a Certificate of Convenience and Necessity and approving the financing thereof.

7. The Issuer's rates as approved by the Public Service Commission are in full force and effect.

8. The Issuer has the authority to pledge the Net Revenues to pay the debt service on the Bonds and to pay the operation and maintenance costs of the System.

9. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by or the validity of the Bonds or the collection or pledge of the Revenues to the repayment of the Bonds.

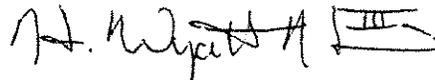
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10. The Issuer has made the required provisions for all insurance and payment and performance bonds required for the Project, and I have verified the accuracy of such insurance policies or binders and such bonds.

Very truly yours,

A handwritten signature in cursive script, appearing to read "H. Wyatt Hanna, III". The signature is written in dark ink and is positioned above the printed name.

H. Wyatt Hanna, III

HWHIII/rb

HANNA & BONHAM
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July 15, 1999

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Charleston, WV 25322

RE: Chelyan Public Service District,
Kanawha County, West Virginia
\$2,518,000 Sewerage System Bonds, Series 1999A

Ladies and Gentlemen:

FINAL TITLE OPINION

This firm represents the Chelyan Public Service District with regard to the above referenced project. This Title Opinion is being provided to you to satisfy your Agency's requirements with regard to the District's loan through the West Virginia Revolving Loan Fund Program. As such, please be advised of the following:

1. That I have investigated and ascertained the location of, and am familiar with the legal description of the necessary sites, including easements and/or rights-of-way, being provided by the Grantee, Chelyan Public Service District, for this project.

2. That I have examined the records on file in the Office of the Clerk of the County Commission of Kanawha County, West Virginia, the county in which this project is to be located, and, in my opinion, the Grantee, Chelyan Public Service District, has legal title or such other estate or interest in the necessary site components for the above referenced project, including 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 facilities to be constructed, except and subject to the following:

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a. If necessary, legal title will be acquired through formal condemnation proceedings for the property of each of the property owners listed below. To the extent that such proceedings have not yet been instituted and a right of entry has not yet been secured and recorded for each parcel, such proceedings will be instituted and a right of entry secured and recorded within sixty (60) days of the Project loan closing. The District's consulting engineer, S & S Engineers, Inc., has advised this office that the contractors on this Project will not institute work on the property of these property owners with this sixty-day period and the inability to have the legal interests in those properties will not impede the construction of the Project. The District is duly vested with the power of eminent domain and may acquire legal title to the property of each of the property owners listed below:

- A. The Full Gospel Tabernacle Church of Ronda
- B. Shonk Land Company, a corporation
- C. Darrell R. Browning and Susan G. Browning, his wife
- D. The heirs of America Mullins
- E. The heirs of Betty L. Rogers
- F. The heirs of Charles Omeria
- G. Molly Faye Mullins Bickford
- H. Mayme Massey and Kaye Y. Trimble
- I. Donald Lovejoy and Maryann Lovejoy, his wife
- J. Gary R. Johnson and Pansie Johnson, his wife
- K. The heirs of Joe Cooper
- L. Verlin M. Stevenson and Rosemary Stevenson
- M. Margaret Moore
- N. James K. Kendall
- O. Thomas H. Rogers

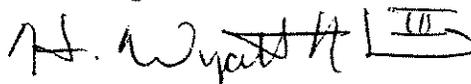
4. That any deeds or other documents which have been acquired to date by the Grantee, Chelyan Public Service District, have been duly recorded in the aforesaid Clerk's Office in order to protect the interest of the Grantee.

5. That I have been advised by the District's consulting engineers, S & S Engineers, Inc., of Charleston, West Virginia, that the necessary permits as may be required by the governing authorities have or will be acquired for this project.

WV Division of Environmental Protection
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If you should have any questions regarding the information contained in this letter, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Wyatt Hanna, III". The signature is stylized with a large, sweeping initial "H" and a distinct "III" at the end.

H. Wyatt Hanna, III

HWHIII/rb

cc: Chelyan PSD
S & S Engineers, Inc.