LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Closing Date: April 27, 2005

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2004 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

Given under my hand and the Great Seal of the State of West Virginia on

April 12, 2005

Secretary of State

jurisdiction and authority provided by this section does not extend to highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways and no rates, fees or charges for stormwater services or costs of compliance may be assessed against highways, road and drainage easements, and/or stormwater facilities constructed, owned and/or operated by the West Virginia division of highways. (1955, c. 135; 1967, c. 105; 1994, c. 61; 2001, c. 212.)

Effect of amendment of 2001. — Acts 2001, c. 212, effective July 13, 2001, substituted "the" for "such" throughout, substituted "the" for "said" throughout, inserted "fees" following "rates" throughout; in the first paragraph, inserted "and/or stormwater system" following "existing sewer system", inserted "or stormwater system" following "such sewer system"; in the second paragraph, inserted "or stormwater" following "sewage", inserted "or stormwater facilities" following "sewer facilities"; in the fourth paragraph, added "or entire stormwater works" to the end; in the sixth paragraph, deleted "such" following "fixing" and "publication of"; in the eighth paragraph, deleted "such" preceding "rates" twice; and in the last paragraph, added the proviso.

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.

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

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. Att'y Gen. 447 (1963).

Cited in Berkeley 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 Invs., Inc. v. Green Valley Community Pub. Serv. Dist, 199 W. Va. 490, 485 S.E.2d 434 (1997).

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§ 16-13A-1. Legislative findings.

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been unable to obtain public utility services. To further this effort, and to 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. Att'y 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 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. Att'y Gen., July 8, 1976.

Cited in State ex rel. APCO v. Gainer, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 162 W. Va. 779, 253 S.E.2d 54 (1979).

§ 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 (1995).

§ 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 metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district: Provided, That after the effective date of this section, no new public service district shall be created, enlarged, reduced, merged, dissolved or consolidated under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules promulgated by the public service commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not the territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties: Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where the territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services 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 of hearing and approval by the public service commission shall apply. The commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (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," this language was added by Acts 1986, c. 81, and became effective June 6, 1986.

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. Att'y Gen., Nov. 13, 1975.

Authority of court. — A county court (now county commission) has authority to add 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, 195 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, 195 S.E.2d 647 (1973).

Merger or consolidation of districts. — This section authorizes either merger or consolidation of public service districts. Op. Att'y 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 commissioners as the surviving corporation, and with respect to a consolidation, will be a new corporate entity. Op. Att'y 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. Att'y 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. Att'y 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. Att'y Gen., Nov. 13, 1975.

Applied in Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

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.)

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

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

Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Att'y Gen., July 8, 1976.

Compensation for additional duties. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading

meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such, they are specifically, by express statute, exempted from the duty of paying registration fees (provided by § 17A-10-8), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4). 49 Op. Att'y Gen. 131 (1961).

Furnishing water to another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Att'y Gen. 739 (1966).

Applied in McCloud v. Salt Rock Water Pub. Serv. Dist., 207 W. Va. 453, 533 S.E.2d 679 (2000).

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.

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

(b) Salaries of the board members are:

(1) For districts with fewer than six hundred customers, up to seventy-five dollars per attendance at regular monthly meetings and fifty dollars per

attendance at additional special meetings, total salary not to exceed fifteen hundred dollars per annum;

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

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

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

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

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

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

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

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

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

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

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

(e) The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings

may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided for by said section. A majority of the members constituting the board also constitute a quorum to do business.

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and the change is effective from the filing of an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located and with the public service commission. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81; 1997, c. 159; 2000, c. 199.)

Effect of amendment of 2000. — Acts 2000, c. 199, effective June 9, 2000, rewrote the section.

Compensation for performing additional duties. — Board members of a public service district could not be compensated for performing the duties of treasurer and/or secretary, or for reading meters for the public service district. Op. Att'y Gen., July 14, 1988, No. 2.

§ 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 of 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.)

§ 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 commission, 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).

Superior right of municipality to extend public services. — If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right under this section to extend public services, such as water and/or sewer service, which were not being previously furnished to the tract by the public service district. Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

When consent of municipality needed. — Where municipality has superior right to extend social services, a public service district would need the consent of the municipality and the public service commission in order to provide such services. Berkeley County Pub. Serv. Sewer Dist. v. West Va. Pub. Serv. Comm'n, 204 W. Va. 279, 512 S.E.2d 201 (1998).

Cited in 45 Op. Att'y Gen. 506 (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 proposed sewage lagoons site satisfied the buffer-zone requirements. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Duty to pay. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities from and after the date of receipt of notice (now 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) (construing 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. McClung Invs., Inc. v. Green Valley Community Pub. Serv. Dist, 199 W. Va. 490, 485 S.E.2d 434 (1997).

Sewer connection requirements. — The boards of public service districts have no authority to require potential users who live outside the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. Op. Att'y Gen., July 8, 1976.

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 resolu-

tion 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.

As to receivers, see Rule 66.

As to application of rules to writ of mandamus, see Rule 81(a)(5).

As to effect of rules on jurisdiction and venue, see Rule 82.

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 commis-

sions 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.)

§ 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 abolition of the procedural distinctions between law and equity, see Rule 2.

In general. — The provision granting bondholders a statutory mortgage lien is valid. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

§ 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 retirement or refinancing of outstanding bond issues of a particular district. Op. Att'y 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. Att'y 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. Att'y 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. Malden Pub. Serv. Dist, 171 W. Va. 645, 301 S.E.2d 601 (1983).

§ 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 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. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

Concerning the reference to "the date this section takes effect", Acts 1958, c. 14, which enacted this section and included this language, became effective February 1, 1958. Acts 1960, c. 19, which amended this section, provided that the act take effect January 29, 1960.

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

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect, by any county court [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 contained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

Editor's notes. — For construction of the county court as the county commission, see W.Va. Const. art. IX, § 9.

Concerning the reference to "the date this section takes effect", Acts 1965, c. 134, which amended this section, provided that the act take effect March 13, 1965.

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

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems 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 by public service districts of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. Op. Att'y Gen., May 6, 1988, No. 27.

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

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

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

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

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

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

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

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. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 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. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 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; powers thereof; community improvement boards.
16-13B-9. Provisions for construction of a project.
16-13B-10. Notice to property owners of assessments; hearings, correcting and laying assessments; report on project completion; permits.
16-13B-11. Construction of projects; assessments; corner lots, etc.
16-13B-12. Apportionment and assessment of cost.

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(m) The board collecting such rates, fees or charges shall be obligated under reasonable rules to shut off and discontinue both water and sewer services to all delinquent users of either water facilities, or sewer facilities or both, and shall not restore either water facilities or sewer facilities, to any delinquent user of either until all delinquent rates, fees or charges for both water facilities, and sewer facilities, including reasonable interest and penalty charges, have been paid in full. (1933, Ex. Sess., c. 25, § 16; 1933, 2nd Ex. Sess., c. 48; 1959, c. 125; 1967, c. 105; 2001, c. 212; 2004, c. 185.)

Effect of amendment of 2004. — Acts 2004, c. 185, effective June 10, 2004, inserted "deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit" in the introductory language; added the subsection designations for (c) through (m); added (d) and (e); substituted "Class II-0" for "Class II-O" in (h); substituted "within twenty days" for "within thirty days" in (k); in (*l*) substituted "twenty days" for "thirty days" and added the second sentence; and deleted "and regulations" following "reasonable rules" in (m).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
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-5. General manager of board.
16-13A-7. Acquisition and operation of district properties.
16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-14. Items included in cost of properties.
16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16-13A-24. Acceptance of loans, grants or temporary advances.
16-13A-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings.

Code of State Rules References. — Government of public service districts, 150 CSR 17, effective September 1, 1990.

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water, sewerage or stormwater services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may

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be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with: (1) The diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills"); (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"); or (4) the collection, control or disposal of stormwater (herein sometimes referred to as "stormwater system" or "stormwater systems"), or (5) the management, operation, maintenance and control of stormwater and stormwater systems (herein sometimes referred to as "stormwater management program" or "stormwater management programs"). As used in this article "stormwater system" or "stormwater systems" means a stormwater system in its entirety or any integral part thereof used to collect, control or dispose of stormwater, and includes all facilities, structures and natural water courses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: Inlets, conduits, outlets, channels, ponds, drainage easements, water quality facilities, catch basins, ditches, streams, gulches, flumes, culverts, siphons, retention or detention basins, dams, floodwalls, pipes, flood control systems, levies and pumping stations: Provided, That the term "stormwater system" or "stormwater systems" does not include highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. As used in this article "stormwater management program" or "stormwater management programs" means those activities associated with the management, operation, maintenance and control of stormwater and stormwater systems, and includes, but is not limited to, public education, stormwater and surface runoff water quality improvement, mapping, planning, flood control, inspection, enforcement and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways. (1986, c. 81; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or stormwater" following sewerage" in the first sentence; added subdivisions (4) and (5); added the last two sentences; and made minor stylistic changes.

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

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

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

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(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 of hearing and approval by the public service commission shall apply. The commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated

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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; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, in (a), capitalized "On" at the beginning of subdivision (1), and inserted "stormwater services" near the middle of the last sentence.

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

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

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

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

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

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

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this

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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; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or for furnishing stormwater services for the city, town or other municipal corporation" in the second sentence of the first paragraph.

§ 16-13A-5. General manager of board.

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

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

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water, sewer or stormwater system or public service district from which such water, sewer or stormwater service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "or stormwater" following "sewer" four times in the third paragraph, and made minor stylistic changes.

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three [§§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as

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Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, added "including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities" to the end of the first sentence.

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

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

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

of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, in the second paragraph, inserted "stormwater facilities" following "sewer facilities" in the proviso; in the third paragraph, inserted "a stormwater system, stormwater management program" following "sewer facilities" and "stormwater" preceding "or gas services"; in the last paragraph, added a new first proviso and redesignated the former first proviso as the second.

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district. The board shall establish rates,

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The board shall establish rates,

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

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

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

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

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

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

(2) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of section eight [§ 24-3-8], article three, chapter twenty-four of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or fifty dollars, with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or fifty dollars and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or fifty dollars. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or fifty dollars has been remitted to the district. After twelve months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the public service commission may

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

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

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the division of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the division of health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one,

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

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

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

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

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

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 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; 2002, c. 272; 2003, c. 183.)

Code of State Rules References. — Rules and regulations for the government of gas utilities and gas pipeline safety, 150 CSR 4, effective July 21, 1996.

Rules and regulations for the government of sewer utilities, 150 CSR 5, effective January 2, 1996.

Rules and regulations for the government of telephone utilities, 150 CSR 6, effective October 10, 2000.

Rules and regulations for the government of water utilities, 150 CSR 7, effective February 5, 1996.

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "fees" following "rates" throughout the section; in the first paragraph, deleted "and regulations" following "needful rules" in the first sentence, inserted a new third sentence, substituted "Where water, sewer, stormwater or gas services, or any combination thereof" for "Where water, sewer and gas services" in the present fourth sentence; inserted the fifth paragraph; in the present sixth paragraph, inserted "stormwater systems or stormwater management systems" following "sewer facilities" and "stormwater" preceding "or gas bills" in the first sentence.

Effect of amendment of 2003. — Acts 2003, c. 183, effective June 6, 2003, added subsection designations; rewrote present (a)(2), and (c); in (d), substituted "division of health" for "bureau of public health," added "tenant or occupant" to the end of the next-to-last sentence, and added the last sentence; in (f), substituted "gas facilities or stormwater systems or stormwater management programs" for "stormwater systems or stormwater management systems or gas facilities" and added the proviso to the end; and made minor stylistic changes.

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

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the

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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; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "for stormwater systems . . . federal and state requirements" following the first phrase.

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

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three [§§ 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, stormwater or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer, stormwater or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81; 1997, c. 160; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "stormwater" following "sewer" in the section heading and throughout the section.

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

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems, stormwater systems or stormwater management systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system, stormwater system or associated stormwater management system or gas facilities, or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118; 2002, c. 272.)

Effect of amendment of 2002. — Acts 2002, c. 272, effective June 7, 2002, inserted "stormwater systems or stormwater management systems" and "stormwater system or associated stormwater management system".

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

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

(b) The public service commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, a verified statement by the board members that the public service district has complied

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rsuant to the provisions of this article loans or grants and procure loans or or other negotiable instruments issued ileges and limitations, set forth with under the provisions of this article, for cost of construction or acquisition of vater systems or stormwater manage- these, and the other purposes herein or from the United States of America artment of the United States or any l, which loans or temporary advances, epaid out of the proceeds of the bonds ions of this article, the revenues of the stormwater system or associated as facilities, or grants to the public gency or from the United States of or department of the United States or individual or from any combination of er into the necessary contracts and reof with any authorized agency or the or public agency or department of the y, corporation or individual. Any other notwithstanding, interest on any such id from the proceeds thereof until the le instrument. (1958, c. 14; 1980, c. 60;

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sions of this article to the contrary, a money, enter into contracts for the ility studies, issue or contract to issue owers conferred by the provisions of [§ 16-13A-20] or twenty-four [§ 16- r consent and approval of the public

y waive the provision of prior consent for engineering, design or feasibility cause shown which is evidenced by the waiver of this section stated in a letter description of the project, a verified ie public service district has complied

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

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

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

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

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

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

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

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§§ 16-24-1 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 prefile with the public service commission its plans and supporting information for the project in a manner prescribed by public service commission rules and regulations. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213; 1997, c. 159; 2003, c. 184.)

Effect of amendment of 2003. — Acts 2003, c. 184, effective June 5, 2003, added subsection designations; inserted (c) and (d); in (b), substituted "a verified statement by the board members that the public service district has complied" for "evidence of compliance," deleted "in the past two years requiring engineering services" from the end of subdivision (1), and deleted "within the past two years" preceding "requiring engineering services" in subdivision (2); and rewrote the final paragraph of the section, deleting former subdivisions (a) through (e) regarding requirements for legal advertisements giving public notice of projects.

ALR references. — Remedies for sewage treatment plant alleged or deemed to be nuisance, 101 ALR5th 287.

State of West Virginia

Certificate

I, Betty Ireland, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 31, ARTICLE 15A 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

April 12, 2005

Secretary of State

ARTICLE 15A.

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

Sec.
31-15A-1. Short title.
31-15A-2. Definitions.
31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council.
31-15A-4. Development of guidelines and preliminary application for funding assistance.
31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council.
31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment.
31-15A-7. Current and prospective planning; roads and highways; report to division of highways.
31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.
31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements.
31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.
31-15A-11. Reservation of funds for projects and infrastructure projects.
31-15A-12. Additional powers of water development authority.
Sec.
31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.
31-15A-14. Termination or dissolution.
31-15A-15. Projects not to be considered public improvements; competitive bid requirements.
31-15A-16. Dedication of severance tax proceeds.
31-15A-17. Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance.
31-15A-17a. Infrastructure revenue bonds payable from A. James Manchin fund.
31-15A-18. Trustee for holders of infrastructure revenue bonds; contents of trust agreement.
31-15A-19. Legal remedies of infrastructure revenue bondholders or noteholders and trustees.
31-15A-20. Infrastructure revenue bonds lawful investments.
31-15A-21. Purchase and cancellation of infrastructure revenue bonds.
31-15A-22. Refunding revenue bonds.
31-15A-23. Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision.
31-15A-24. Infrastructure revenue bonds exempt from taxation.

§ 31-15A-1. Short title.

This article shall be known and may be cited as the "West Virginia Infrastructure and Jobs Development Act." (1994, 1st Ex. Sess., c. 26.)

Cited in State ex rel. Cooper v. Caperton, 196 W. Va. 208, 470 S.E.2d 162 (1996).

§ 31-15A-2. Definitions.

For purposes of this article:

(a) "Bond" or "infrastructure revenue bond" means a revenue bond, note, or other obligation issued by the water development authority pursuant to this article, including bonds to refund such bonds and notes to renew such notes, and notes in anticipation of and payable from the proceeds of such bonds.

(b) "Code" means the code of West Virginia, one thousand nine hundred thirty-one, as amended;

(c) "Cost" means, as applied to any project to be financed, in whole or in part, with infrastructure revenues or funds otherwise provided pursuant to this article, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation, grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of all legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: Provided, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the council or the water development authority has not determined to be consistent with the purposes and objectives of this article;

(d) "Council" means the West Virginia infrastructure and jobs development council created in section three [§ 31-15A-3] of this article;

(e) "Division of environmental protection" means the division [department] of environmental protection established under article one [§§ 22-1-1 et seq.], chapter twenty-two of this code, or any successor to all or any substantial part of its powers and duties;

(f) "Division of health" means the division of health created in article one [§§ 16-1-1 et seq.], chapter sixteen of this code, or any successor to all or any substantial part of its powers and duties;

(g) "Economic development authority" means the economic development authority established under article fifteen [§§ 31-15-1 et seq.], chapter thirty-one of the code, or any successor to all or any substantial part of its powers and duties;

(h) "Emergency project" means a project which the council has determined: (1) Is essential to the immediate economic development of an area of the state; and (2) will not likely be developed in that area if construction of the project is not commenced immediately;

(i) "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or wastewater facilities or infrastructure projects;

(j) "Housing development fund" means the West Virginia housing development fund established under article eighteen [§§ 31-18-1 et seq.] of this chapter, or any successor to all or any substantial part of its powers and duties;

(k) "Infrastructure fund" means the West Virginia infrastructure fund created and established in section nine [§ 31-15A-9] of this article;

(*l*) "Infrastructure project" means a project in the state which the council determines is likely to foster and enhance economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation: (1) The process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein; and (2) preparing land for construction and making, installing or constructing improvements on the land, including water or wastewater facilities or any part thereof, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site;

(m) "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the infrastructure fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this article; and any other amounts received by the state treasurer, council or the water development authority for the purposes of this article;

(n) "Need of the project sponsors" means there is a public need for a project. The council shall construe a population increase evidenced by the last two decennial censuses in a county in which a project is proposed, as a factor supporting the conclusion that a need exists for projects in that county.

(o) "Project" means any wastewater facility, water facility project or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor;

(p) "Project sponsor" means any governmental agency or person, or any combination thereof, including, but not limited to, any public utility, which intends to plan, acquire, construct, improve or otherwise develop a project;

(q) "Public service commission" means the public service commission of West Virginia created and established under section three [§ 24-1-3], article one, chapter twenty-four of this code, or any successor to all or any substantial part of its powers and duties;

(r) "Person" means any individual, corporation, partnership, association, limited liability company or any other form of business organization;

(s) "Public utility" means any person or persons, or association of persons, however associated, whether incorporated or not, including, without limitation, any governmental agency, operating a wastewater facility or water facility as a public service, which is regulated by the public service commission as a public utility under chapter twenty-four [§§ 24-1-1 et seq.] of this code or which is required to file its tariff with the public service commission;

(t) "State development office" means the West Virginia development office established under article two [§§ 5B-2-1 et seq.], chapter five-b of this code, or any successor to all or any substantial part of its powers and duties;

(u) "State infrastructure agency" means the division of health, division of environmental protection, housing development fund, public service commission, state development office, water development authority, economic development authority and any other state agency, division, body, authority, commission, instrumentality or entity which now or in the future receives applications for the funding of, and provides funding or technical assistance to, the planning, acquisition, construction or improvement of a project;

(v) "Waste water facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, wastewater, and the residue thereof; facilities for the temporary or permanent impoundment of wastewater, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport wastewater together with the equipment and furnishings therefor or thereof and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities therefor;

(w) "Water development authority" means the West Virginia water development authority continued pursuant to the provisions of article one [§§ 22C-1-1 et seq.], chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties; and

(x) "Water facility" means all facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water all for the purpose of providing potable, sanitary water suitable for human consumption and use. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

§ 31-15A-3. West Virginia infrastructure and jobs development council continued; members of council; staff of council.

(a) The West Virginia infrastructure and jobs development council is hereby continued. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties shall be considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose.

(b) The council shall consist of eleven members, including the executive director of the housing development fund or his or her designee, the director of the division of environmental protection or his or her designee, the director of the economic development authority or his or her designee, the director of the water development authority or his or her designee, the executive director of the state development office or his or her designee, the director of the division of health or his or her designee, the chairman of the public service commission or his or her designee, and four members representing the general public: Provided, That there shall be at least one member representing the general public from each congressional district: Provided, however, That after the expiration of the term of office of the members first appointed as representatives of the general public, no more than one member representing the general public may be a resident of the same county. The governor shall appoint the public members of the council who shall serve three-year staggered terms. The commissioner of the division of highways, the executive director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, one representative of the board of directors of the state college system and one representative of the board of trustees of the university of West Virginia shall serve as advisory members of the council. The governor shall appoint the legislative members of the council: Provided, further, That no more than three of the legislative members may be of the same political party. The governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board. The advisory members shall be ex officio, nonvoting members of the council.

(c) The council shall annually elect one of its members as chairman, and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council. No vacancy in the membership of the council impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

(d) No member of the council who serves by virtue of his or her office shall receive any compensation or reimbursement of expenses for serving as a member. The members of the council who represent the general public shall receive reimbursement for actual expenses incurred in the service of the council.

(e) The council shall meet at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its

business, and shall meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the economic development authority shall not be subject to council review with regard to any action taken pursuant to the authority established in article fifteen [§§ 31-15-1 et seq.], chapter thirty-one of this code nor shall the governor's civil contingent fund be subject to council review with regard to projects or infrastructure projects funded through the governor's civil contingent fund.

(f) The water development authority shall provide office space for the council, and each governmental agency represented on the council shall provide staff support for the council in the manner determined by the council from time to time.

(g) The council shall invite to all its meetings one or more representatives of the United States department of agriculture, rural economic community development, the United States economic development agency and the United States army corps of engineers or any successors thereto. The council shall also invite such other appropriate parties as may be necessary to effectuate the purposes of this article. (1994, 1st Ex. Sess., c. 26; 1995, c. 130.)

§ 31-15A-4. Development of guidelines and preliminary application for funding assistance.

(a) To implement and carry out the intent of this article, the council shall promulgate legislative rules in accordance with article three [§§ 29A-3-1 et seq.], chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the council and other state infrastructure agencies in evaluating any request by a project sponsor for funding assistance to plan, acquire, construct, improve or otherwise develop a project or infrastructure project. The guidelines shall include the following factors: (1) the public health benefits of the project or infrastructure project; (2) the economic development benefits of the project or infrastructure project; (3) the degree to which the project or infrastructure project will correct deficiencies in the compliance of water supply or sewage treatment facilities with state or federal laws, regulations or standards; (4) the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to section six [§ 31-15A-6], of this article; (5) the cost effectiveness of the project or infrastructure project as compared with alternatives which achieve substantially the same public health or economic development benefits, including the consideration of providing maximum feasible fire protection; (6) the availability of alternative sources of funding which could finance all or a part of the project and infrastructure project, and the need for the assistance of the council to finance the project or infrastructure project or attract other sources of funding; (7) the applicant's ability to operate and maintain the system if the project or infrastructure project is approved; (8) the degree to which the project or infrastructure project achieves other state or regional planning goals; (9) the estimated date upon which the project or infrastructure project could commence if funding were available and the estimated comple-

tion date of the project or infrastructure project; and (10) such other considerations as the council may consider necessary or appropriate to accomplish the purpose and intent of this article.

(b) The council shall create a preliminary application form which shall be used by all project sponsors requesting funding assistance from state infrastructure agencies to plan, acquire, construct, improve or otherwise develop an infrastructure project or project. The preliminary application form shall contain all information required by all state infrastructure agencies that will be required to issue permits and/or certificates regarding the project or infrastructure project. The preliminary application shall require the project sponsor to set forth the type and proposed location of the infrastructure project or project; the estimated total cost of the project; the amount of funding assistance required and the specific uses of the funding; other sources of funding available or potentially available for the infrastructure project or project; information demonstrating the need for the infrastructure project or project and that the proposed funding of the project is the most economically feasible and viable alternative to completing the project or infrastructure project; and such other information as the council considers necessary to enable it to recommend the type of project or infrastructure project financing, in terms of the kind, amount and source of funding, which the project sponsor should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, and to otherwise carry out the intent of this article. (1994, 1st Ex. Sess., c. 26.)

Code of State Rules References. — Infrastructure and jobs development council funding rules, 167CSR1, effective June 6, 1996.

§ 31-15A-5. Requirements for project funding assistance; review of project preliminary applications by council.

(a) No project sponsor may apply for or receive any loan, loan guarantee, grant or other funding assistance for a project or infrastructure project from any state infrastructure agency (i) unless the project sponsor requiring the funding assistance first submits a completed preliminary application to the council on the form prepared for such purpose by the council pursuant to section four of this article, and (ii) except as may be recommended by the council after consideration of the preliminary application: Provided, That any project sponsor which has an infrastructure project or project with either acceptable bids or all funding in place on the effective date of this act is not required to comply with the provisions of this section.

(b) The council shall, within thirty days of receipt of each completed preliminary application submitted to it, review the preliminary application and either (i) make a written recommendation as to the infrastructure project or project financing, in terms of the kind, amount and source of funding, which the project sponsor submitting the application should pursue and which the state infrastructure agency or agencies should consider an appropriate invest-

ment of public funds, or (ii) if the council determines that (1) the proposed project or infrastructure project is not eligible for funding assistance from any state infrastructure agency, or (2) the proposed project or infrastructure project is not otherwise an appropriate or prudent investment of state funds, the council shall recommend that the project sponsor not seek funding from any state infrastructure agency. A project sponsor shall include the preliminary application and the council's recommendations in any application to a state infrastructure agency.

(c) The council shall provide a copy of its recommendation with respect to each preliminary application, together with a copy of the preliminary application, to all appropriate state infrastructure agencies, which shall take into account the council's recommendations with respect to a project or infrastructure project before taking any action with respect to the project. No state infrastructure agency shall take any action inconsistent with the recommendation of the council unless the governing body of the agency, or the head of the agency if it has no governing body, expressly finds and determines that the recommendation is not in the best interest of the state or the area in which the proposed infrastructure project or project is to be located.

(d) In reviewing each preliminary application, the council shall use the engineering, financial and technical expertise of the respective staffs of the state infrastructure agencies represented on the council so as to recommend for funding those projects or infrastructure projects which are consistent with the purposes and intent of this article and with the policies and priorities of this state generally. The council may include in its findings a recommendation that a state infrastructure agency consider technical reports on the project prepared by other infrastructure agencies or by any federal agency. (1994, 1st Ex. Sess., c. 26.)

Code of State Rules References. — Infrastructure and jobs development council funding rules, 167CSR1, effective June 6, 1996.

§ 31-15A-6. Powers, duties and responsibilities of the council generally; comprehensive assessment.

(a) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes and intent of this article. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any infrastructure project or project;

(2) Periodically prepare a list of infrastructure projects or projects which cannot meet the established funding guidelines of the various state infrastructure agencies, other than the housing development fund, but which are consistent with the mandates of this article and recommend to the water development authority that it make a grant or loan to the project sponsors

from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

(3) Do all other acts necessary and proper to carry out the powers expressly granted to the authority in this article; and

(4) To make and execute contracts, commitments and obligations and other instruments necessary or convenient for the exercise of its powers.

(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs by the first day of July, one thousand nine hundred ninety-six. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three year period after the initial assessment and inventory is completed.

(c) The council shall study the viability of the consolidation of public service districts throughout the state: Provided, That the study shall encompass not only public service districts but also any and all entities which provide or supply water and sewer service to the general public: Provided, however, That the council shall, in the preparation of the study, consult with the public service district division of the public service commission and representatives of the West Virginia rural water association and the West Virginia association of public service districts, as needed. The council shall report their findings and conclusions on or before the sixteenth of January of the year one thousand nine hundred ninety-five to the governor, speaker of the house of delegates and president of the senate. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-7. Current and prospective planning; roads and highways; report to division of highways.

(a) The council shall take into account the current and prospective infrastructure needs in relation to plans of the division of highways for the development and building of new roads. Upon completion an environmental impact study, the commissioner of highways shall provide the council with plans for any and all new roads. In a timely manner, the council shall advise the commissioner of the division of highways on the feasibility of the expansion of new or existing water and sewer lines concomitant to the construction of the new roads.

(b) The council has the authority to appoint local infrastructure planning teams. The local infrastructure planning teams may consist of the following: A designee of the division of highways from the region where the new road is being built; a designee of the division of highways from the central state office;

a designee from the environmental engineers division of the department of health and human resources; a designee from the local developmental authority where the new road is being built; a designee from the regional developmental authority in the area where the new road is being built; a designee from the public service commission; a designee from the division of environmental protection; a designee from the county commission where the new road is being built who shall serve as chairperson of the planning team; a citizen of the county where the new road is being built to be chosen by the county commission; and the elected state delegates and senators from the area where the new road is being built. In order to avoid delay of any highway project, immediately upon appointment of a local infrastructure planning team, the director of the division of highways shall submit to the council a time frame within which the planning team must act and within which the planning team must submit any plans, maps, recommendations or reports developed pursuant to this subsection. The local infrastructure planning team shall meet prior to the development and building of a new road. Members of the local infrastructure planning team shall only receive payment for actual expenses incurred. The local infrastructure planning team shall advise the commissioner of the division of highways on the feasibility of an infrastructure plan. The local infrastructure planning team shall meet to develop an infrastructure plan that includes an assessment study of existing water and sewer lines and a feasibility study on future development and laying of water and sewer lines. After these studies are completed, a developmental map shall be drawn of the proposed road route with overlays of the proposed water and sewer lines. These studies and the map shall be presented to the commissioner of the division of highways and shall be used by the commissioner in the planning, developing and building of the road.

(c) The water development authority shall establish a restricted account within the infrastructure fund to be expended for the construction of water and sewage lines as may be recommended by the council in accordance with this article and specifically, in accordance the plan developed under subsection (b) of this section. The reserve account shall be known as the "infrastructure road improvement reserve account". The council and the division of highways may enter into agreements to share the cost of financing projects approved in accordance with this section from moneys available in the infrastructure road reserve account and moneys available from the state road fund. Annually, the council may direct the water development authority to transfer funds from the infrastructure fund in an amount not to exceed one million dollars to the restricted account: Provided, That at no time may the balance of the restricted account exceed one million dollars.

(d) For the purposes of this section the term "new" means a road right-of-way being built for the first time.

(e) After the construction of water and sewer lines adjacent to the new road these new lines shall be turned over to existing utilities by expansion of boundaries of public service districts or shall be main extensions from the municipality. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by public service commission; and exemption for North Fork Hughes River watershed project.

(a) If the council determines a project to be an emergency and the emergency project will be funded solely with grant money for the extension of an existing certificated water facility or wastewater facility, and if the council finds in its recommendation that the construction and acquisition of the emergency project will have no effect on the public utility's customer rates and will have no significant effect on its operational costs as a result of the project cost, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under section eleven [§ 24-2-11], article two, chapter twenty-four of this code. If the public utility is a public service district, it is exempt from the approval of the public service commission required under section twenty-five [§ 16-13A-25], article thirteen-a, chapter sixteen of this code.

(b) Any public utility, and any other entity that will operate as a public utility, must obtain a certificate of public convenience and necessity pursuant to section eleven [§ 24-2-11], article two, chapter twenty-four of this code for any emergency project that is not exempt under subsection (a) of this section. The public service commission shall render its final decision on any application for a certificate within one hundred twenty days of the filing of the application: Provided, That the thirty-day prefiling requirement is not required. If the project sponsor is a public service district, then the project will be exempted from the approval requirements of section twenty-five [§ 16-13A-25], article thirteen-a, chapter sixteen of this code.

(c) Projects that are not emergency projects are subject to the requirements of section eleven, article two, chapter twenty-four of this code to the extent they would be otherwise.

(d) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as provided in subsection (*l*), section two [§ 31-15A-2] of this article and to include a water facility project as defined in subsection (n), section two of this article, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subsection (a) of this section are specifically made applicable to the project. The project is hereby specifically authorized and the public land corporation shall have and may exercise the power of eminent domain and all authority otherwise prescribed by law to acquire necessary land and rights-of-way, to include approximately four hundred seventy-eight acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian regional commission through the United States soil conservation service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the division of tourism and parks or the successor to the commission-

er's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Editor's notes. — Concerning the reference in (d) to "a water facility project as defined in subsection (n), section two of this article," the term "water facility" is defined in subsection (x) of that section.

§ 31-15A-9. Infrastructure fund; deposits in fund; disbursements to provide loans, loan guarantees, grants and other assistance; loans, loan guarantees, grants and other assistance shall be subject to assistance agreements.

(a) The water development authority shall create and establish a special revolving fund of moneys made available by appropriation, grant, contribution or loan to be known as the "West Virginia Infrastructure Fund". This fund shall be governed, administered and accounted for by the directors, officers and managerial staff of the water development authority as a special purpose account separate and distinct from any other moneys, funds or funds owned and managed by the water development authority. The infrastructure fund shall consist of sub-accounts, as deemed necessary by the council or the water development authority, for the deposit of: (1) Infrastructure revenues; (2) any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the infrastructure fund from any source, public or private; (3) amounts received as payments on any loans made by the water development authority to pay for the cost of a project or infrastructure project; (4) insurance proceeds payable to the water development authority or the infrastructure fund in connection with any infrastructure project or project; (5) all income earned on moneys held in the infrastructure fund; (6) all funds deposited in accordance with section four [§ 31-15B-4] of article fifteen-b; and (7) all proceeds derived from the sale of bonds issued pursuant to article fifteen-b [§§ 31-15B-1 et seq.] of this chapter.

Any money collected pursuant to this section shall be paid into the West Virginia infrastructure fund by the state agent or entity charged with the collection of the same, credited to the infrastructure fund, and used only for purposes set forth in this article or article fifteen-b [§§ 31-15B-1 et seq.].

Amounts in the infrastructure fund shall be segregated and administered by the water development authority separate and apart from its other assets and programs. Amounts in the infrastructure fund may not be transferred to any other fund or account or used, other than indirectly, for the purposes of any other program of the water development authority, except that the water development authority may use funds in the infrastructure fund to reimburse itself for any administrative costs incurred by it and approved by the council in connection with any loan, loan guarantee, grant or other funding assistance made by the water development authority pursuant to this article.

(b) Notwithstanding any provision of this code to the contrary, amounts in the infrastructure fund shall be deposited by the water development authority in one or more banking institutions: Provided, That any moneys so deposited shall be deposited in a banking institution located in this state. The banking institution shall be selected by the water development authority by competitive bid. Pending the disbursement of any money from the infrastructure fund as authorized under this section, the water development authority shall invest and reinvest the moneys subject to the limitations set forth in article eighteen [§§ 31-18-1 et seq.], chapter thirty-one of this code.

(c) To further accomplish the purposes and intent of this article and article fifteen-b [§§ 31-15B-1 et seq.] of this chapter, the water development authority may pledge infrastructure revenues and from time to time establish one or more restricted accounts within the infrastructure fund for the purpose of providing funds to guarantee loans for infrastructure projects or projects: Provided, That for any fiscal year the water development authority may not deposit into the restricted accounts more than twenty percent of the aggregate amount of infrastructure revenues deposited into the infrastructure fund during the fiscal year. No loan guarantee shall be made pursuant to this article unless recourse under the loan guarantee is limited solely to amounts in the restricted account or accounts. No person shall have any recourse to any restricted accounts established pursuant to this subsection other than those persons to whom the loan guarantee or guarantees have been made.

(d) Each loan, loan guarantee, grant or other assistance made or provided by the water development authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the water development authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided, which agreement shall include, without limitation and to the extent applicable, the following provisions:

(1) The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefor, if any;

(2) The specific purposes for which the loan or grant proceeds shall be expended or the benefits to accrue from the loan guarantee or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

(3) The duties and obligations imposed regarding the acquisition, construction, improvement or operation of the project or infrastructure project; and

(4) The agreement of the governmental agency to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the water development authority or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the water development authority the right to appoint a receiver for the project or infrastructure if the project sponsor should default on any terms of the agreement.

(e) Any resolution of the water development authority approving loan, loan guarantee, grant or other assistance shall include a finding and determination that the requirements of this section have been met.

(f) The interest rate on any loan to governmental, quasi-governmental, or not for profit project sponsors for projects made pursuant to this article shall not exceed three percent per annum. Due to the limited availability of funds available for loans for projects, it is the public policy of this state to prioritize funding needs to first meet the needs of governmental, quasi-governmental and not for profit project sponsors and to require that loans made to for-profit entities shall bear interest at the current market rates. Therefore, no loan may be made by the council to a for-profit entity at an interest rate which is less than the current market rate at the time of the loan agreement.

(g) The water development authority shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to the receipts, disbursements, contracts, leases, assignments, loans, grants and all other matters relating to the financial operation of the infrastructure fund, including the operating of any sub-account within the infrastructure fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration [office abolished], where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Legislature's joint committee on government and finance. (1994, 1st Ex. Sess., c. 26; 1995, c. 130.)

Editor's notes. — The office of the commissioner of finance and administration was abolished, and the duties of that office were transferred to the secretary of administration. See § 5A-1-2.

§ 31-15A-10. Recommendations by council for expenditures of funds by loan, grant or for engineering assistance.

(a) To further accomplish the purpose and intent of this article, the water development authority shall use the moneys in the infrastructure fund created pursuant to section nine [§ 31-15A-9] of this article, upon receipt of one or more recommendations from the council pursuant to section five [§ 31-15A-5] of this article, to make loans, with or without interest, loan guarantees or grants and to provide other assistance, financial, technical or otherwise, to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor: Provided, That any moneys disbursed from the infrastructure fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. No loan, loan guarantee, grant or other assistance shall be made or provided except upon a determination by the council that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of this article, based upon an application submitted to the council: Provided, however, That no grant shall be made to a project sponsor that is not a governmental agency or a not for profit corporation under the provisions of section 501(c) [26 USCS § 501(c)] of the Internal Revenue Code of 1986 , as amended. Applications for loans, loan guarantees, grants or other assistance may be submitted by a project sponsor for one or

more infrastructure projects on preliminary application forms prepared by the council pursuant to section four [§ 31-15A-4] of this article. Any recommendation of the council approving a loan, loan guarantee, grant or other assistance shall include a finding and determination by the council that the requirements of this section have been met. The council shall base any decisions to loan money for projects to project sponsors pursuant to this article solely on the need of the project sponsors.

(b) The council has the authority in its sole discretion to make grants to project sponsors if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project. Therefore, the council may consider the economic or financial conditions of the area to be served. As a condition for receipt of a grant under this subsection, the council may require, in addition to any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon a recommendation by the council, the water development authority shall provide the grant in accordance with the recommendation. The council shall develop criteria to be considered in making grants to project sponsors which shall require consideration of the economic or financial conditions of the area to be served and the availability of other funding sources. The council shall adopt procedural rules regarding the manner in which grants will be awarded in conformity with this section. The procedural rules shall be adopted pursuant to article three [§§ 29A-3-1 et seq.], chapter twenty-nine-a of this code.

(c) Notwithstanding any other provision of this article to the contrary, the council shall apply a mandatory minimum end user utility rate that must be met by the project sponsor before funding assistance may be awarded. The mandatory minimum end utility rate shall be be based upon a uniform statewide percentage of the median household income in a particular geographic area and said rate shall not exceed six tenths of one percent: Provided, That funding assistance made from the proceeds of any general obligation bonds and revenue bonds issued after the fifteenth day of March, one thousand nine hundred ninety-eight, after transfer required to make the state match for the water and wastewater revolving loan programs pursuant to article two [§§ 22C-2-1 et seq.], chapter twenty-two-c and article thirteen-c [§§ 16-13C-1 et seq.], chapter sixteen of this code, shall be provided by the council on a pro rata basis divided equally among the congressional districts of this state as delineated in accordance with section three [§ 1-2-3], article two, chapter one of this code: Provided, however, That infrastructure projects as defined in subsection (*l*), section two [§ 31-15A-2] of this article shall not be subject to pro rata distribution. When determining median household income of a geographic area of the project to be served, the council shall consider any surveys of the income of the households that will be served by the project.

(d) No loan or grant funds may be made available for a project if the project to be funded will provide subsidized services to certain users in the service area of the project.

(e) Notwithstanding any other provision of this article to the contrary, engineering studies and requirements imposed by the council for preliminary applications shall not exceed those engineering studies and requirements which are necessary for the council to determine the economic feasibility of the project. If the council determines that the engineering studies and requirements for the preapplication would impose an undue hardship on any project sponsor, the council may provide funding assistance to project sponsors to defray the expenses of the preapplication process from moneys available in the infrastructure fund for making loans: Provided, That the council may only provide funding assistance in an amount equal to five thousand dollars or fifty percent of the total preapplication cost of the project, whichever amount is greater. If the project is ultimately approved for a loan by the council, the amount of funding assistance provided to the project sponsor for the preapplication process shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the council, then the amount of funding assistance provided to the project sponsor will be considered a grant by the council and the total amount of the assistance shall be forgiven. In no event may the amount of funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually.

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution or planned distribution of grants and loans under the criteria to be developed pursuant to this article. (1994, 1st Ex. Sess., c. 26; 1995, c. 130; 1998, c. 180.)

Code of State Rules References. — Infrastructure and jobs development council funding rules, 167 CSR 1, effective June 6, 1996.

Editor's notes. — Section 501 of the Internal Revenue Code of 1986, referred to in (a), is codified at 26 USCS § 501.

§ 31-15A-11. Reservation of funds for projects and infrastructure projects.

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two [§ 31-15A-2] of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: Provided, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the council for community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

Editor's notes. — Concerning the reference to "projects as defined :n subsection (n), section two of this article," the term "project" is defined in subsection (o) of that section.

§ 31-15A-12. Additional powers of water development authority.

To accomplish the purpose and intent of this article, the water development authority is hereby empowered, in addition to all other powers granted to it under this code, upon approval of the council, to (1) enter into agreements or other transactions with any federal or state agency in connection with any infrastructure project or project; (2) receive or administer on behalf of any federal or state agency grants, subsidies or other payments to be applied to the costs of any infrastructure project or project financed in whole or in part or otherwise assisted by the water development authority, including, but not limited to, payments to be applied to operating costs and debt service or obligations of any project sponsor; (3) receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions are made; (4) establish and amend the criteria and qualifications for making loans, loan guarantees or grants, or providing any other assistance, for any infrastructure project or project, and the terms of any loans, loan guarantee, grant or assistance agreement for any project; and (5) do all things which are necessary to further the purposes and intent of this article. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-13. Prohibition on funds inuring to the benefit of or being distributable to water development board; transactions between the water development board and officers having certain interests in such transactions.

No part of the infrastructure fund or the West Virginia infrastructure revenue debt service fund shall inure to the benefit of or be distributable to the water development board directors or officers of the water development authority except that the water development authority is authorized and empowered to pay reasonable compensation, other than to members of the water development board, including the chairman, vice chairman, secretary-treasurer for services rendered and to make loans and exercise its other powers as previously specified in furtherance of its corporate purpose: Provided, That no loans shall be made, and no property shall be purchased or leased from, or sold, leased or otherwise disposed of, to any water development board member or officer of the water development authority. (1994, 1st Ex. Sess., c. 26; 1998, c. 180.)

§ 31-15A-14. Termination or dissolution.

Upon the termination or dissolution of the water development authority, all rights and properties of the water development authority with respect to the

infrastructure fund shall pass to and be vested in the state, subject to the rights of lienholders and other creditors. (1994, 1st Ex. Sess., c. 26.)

§ 31-15A-15. Projects not to be considered public improvements; competitive bid requirements.

(a) No project or infrastructure project acquired, constructed, maintained or financed, in whole or in part, by the water development authority shall be considered to be a "public improvement" within the meaning of the provisions of article five-a [§§ 21-5A-1 et seq.], chapter twenty-one of this code as a result of the financing.

(b) The state and its subdivisions shall, except as provided in subsection (c) of this section, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a [§§ 21-5A-1 et seq.], chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost.

Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project.

(c) This section does not:

(1) Apply to work performed on construction or repair projects not exceeding a total cost of fifty thousand dollars by regular full-time employees of the state or its subdivisions: Provided, That no more than fifty thousand dollars shall be expended on an individual project in a single location in a twelve-month period;

(2) Prevent students enrolled in vocational educational schools from being used in the construction or repair projects when such use is a part of the students' training program;

(3) Apply to emergency repairs to building components and systems: Provided, That the term "emergency repairs" means repairs that, if not made immediately, will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems; or

(4) Apply to any situation where the state or a subdivision of the state comes to an agreement with volunteers, or a volunteer group, by which the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided, That the total cost of the construction or repair projects does not exceed fifty thousand dollars.

(d) The provisions of subsection (b) of this section do not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state. (1994, 1st Ex. Sess., c. 26; 2001, c. 45.)

§ 31-15A-16. Dedication of severance tax proceeds.

(a) There shall be dedicated an annual amount from the collections of the tax collected pursuant to article thirteen-a [§§ 11-13A-1 et seq.], chapter

eleven of this code for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development in this state as provided in this article.

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a [§§ 11-13A-1 et seq.], chapter eleven of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three [§ 31-15B-3], article fifteen-b of this chapter: Provided, That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter.

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) none of the collections from the tax imposed pursuant to section six [§ 11-13A-6], article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a [§§ 11-13A-1 et seq.], chapter eleven and dedicated for purposes of medicaid and the division of forestry pursuant to section twenty-a [§ 11-13A-20a] of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

(d) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b [§§ 31-15B-1 et seq.] of this chapter. (1994, 1st Ex. Sess., c. 26; 1995, c. 130; 1998, c. 180.)

§ 31-15A-17. Water development authority empowered to issue infrastructure revenue bonds and refunding bonds; creation of infrastructure revenue debt service fund; funding of infrastructure revenue debt service fund; requirements and manner of such issuance.

(a) To accomplish the purpose and intent of this article, the water development authority is hereby empowered at the written request of the council to issue from time to time infrastructure revenue bonds of the state in such principal amounts as the council deems necessary to make loans and loan guarantees and other forms of financial assistance to project sponsors for one or more projects or infrastructure projects: Provided, That the water development authority may not issue any such bonds, other than refunding bonds, unless the council by resolution determines that the aggregate cost of the

projects or infrastructure projects expected to be constructed during any annual period exceeds (1) the projected annual infrastructure revenues for the same period, and (2) the principal and interest payments not otherwise pledged to the infrastructure revenue debt service fund that are due the water development authority on all outstanding loans previously made by the water development authority pursuant to the provisions of this article.

(b) The proceeds of infrastructure revenue bonds shall be used solely for the purpose of making loans and loan guarantees and other forms of financial assistance to sponsors of one or more projects or infrastructure projects, and shall be deposited in one or more special accounts with the trustee under the trust agreement securing such bonds and disbursed from time to time for projects or infrastructure projects in accordance with this article: Provided, That notwithstanding any provision of this code to the contrary, twenty percent of the funds deposited in the special account shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two [§ 31-15A-2], of this article.

(c) The water development authority may not authorize the disbursement of any proceeds of infrastructure revenue bonds unless it has received documentation from the council pursuant to the provisions of section ten [§ 31-15A-10] of this article.

(d) There is hereby created in the water development authority a special fund which shall be designated and known as the "West Virginia Infrastructure Revenue Debt Service Fund," into which shall be transferred solely from the loan repayments deposited in the infrastructure fund the amounts certified by the director of the water development authority as necessary to pay the principal, premium, if any, and interest on infrastructure revenue bonds and any reserve requirements, subject to the terms of any agreement with the holders of the infrastructure revenue bonds. All amounts deposited in the West Virginia infrastructure revenue debt service fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any infrastructure revenue bonds authorized by this article: Provided, That amounts on deposit in the fund may be used to establish or maintain reserves created for the purposes of securing such infrastructure revenue bonds. The pledge shall be valid and binding from the time the pledge is made, and the West Virginia infrastructure revenue debt service fund so pledged shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the water development authority irrespective of whether the parties have notice thereof.

(e) Except as may otherwise be expressly provided in this article or by resolution of the water development authority, every issue of infrastructure revenue bonds shall be special obligations of the water development authority payable solely from amounts in the West Virginia infrastructure revenue debt service fund, and the reserves created for this purpose by the water development authority, without preference or priority among the bonds regardless of when issued, subject only to any agreements with the holders of any bonds to the contrary. All such bonds are hereby declared to be negotiable instruments.

(f) Infrastructure revenue bonds shall be authorized by resolution of the water development authority. These bonds shall bear such dates and shall mature at such times, in case of any note or renewal thereof not exceeding five years from the date of issue of the original note, and in the case of any bond not exceeding fifty years from the date of issue, as the resolution may provide. Infrastructure revenue bonds shall bear interest at a rate or rates, including variable rates, shall be taxable or tax-exempt, shall be in the denominations, shall be in registered form, shall carry the registration privileges, shall be payable in the medium and place of payment, and shall be subject to the terms of redemption as the water development authority may authorize. Infrastructure revenue bonds may be sold by the water development authority at public or private sale at the price the water development authority determines in consultation with the council. Infrastructure revenue bonds shall be executed by the chairman and the vice chairman of the water development authority, either or both of whom may use a facsimile signature. The official seal of the water development authority or a facsimile thereof shall be affixed thereto or printed thereon and attested by manual or facsimile signature by the secretary-treasurer of the water development authority. If any officer whose signature, or a facsimile of whose signature appears on any infrastructure revenue bond ceases to be such officer before delivery of such bond, such signature or facsimile is nevertheless sufficient for all purposes to the same extent as if he or she had remained in office until such delivery, and if the seal of the water development authority has been changed after a facsimile has been imprinted on such bond, the facsimile will continue to be sufficient for all purposes.

(g) Any resolution authorizing any infrastructure revenue bonds may contain provisions, subject to any agreement with bondholders or noteholders which may then exist, which agreements shall be part of the contract with the holder thereof, with respect to the pledge of or other use and disposition of amounts in the infrastructure revenue debt service fund; the setting aside of reserve funds; the disposition of any assets of the water development authority; limitations on the purpose to which the proceeds of sale of bonds may be applied; the authorization of notes issued in anticipation of the issuance of bonds; an agreement of the water development authority to do all things necessary for the authorization, issuance and sale of such bonds in such amounts as may be necessary for the timely retirement of such notes; limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding bonds and the renewal of outstanding notes; the procedures, if any, by which the terms of any contract with bondholders or noteholders may be amended or abrogated; the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given; and any other matter which in any way affects the security for or protection of the bonds.

(h) In the event that the sum of all reserves pledged to the payment of the bonds is less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of the bonds, the chairman or the director of the water development authority shall certify, on or before the

first day of December of each year, the amount of such deficiency to the governor of the state for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the water development authority to be pledged for payment of such bonds: Provided, That the Legislature shall not be required to make any appropriations so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

(i) Neither the officers or board members of the water development authority, nor any person executing the infrastructure revenue bonds, shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. (1998, c. 180.)

§ 31-15A-17a. Infrastructure revenue bonds payable from A. James Manchin fund.

Notwithstanding any other provision of this code to the contrary, the water development authority may issue, in accordance with the provisions of section seventeen [§ 31-15A-17] of this article, infrastructure revenue bonds payable from the A. James Manchin fund created by section six [§ 17-24-6], article twenty-four, chapter seventeen of this code and such other sources as may be legally pledged for such purposes other than the West Virginia infrastructure revenue debt service fund created by section seventeen of this article. (2003, c. 251.)

Effective dates. — Acts 2003, c. 251, provided that the act take effect June 6, 2003.

§ 31-15A-18. Trustee for holders of infrastructure revenue bonds; contents of trust agreement.

(a) Any infrastructure revenue bonds issued by the water development authority under this article shall be secured by a trust agreement between the water development authority and a corporate trustee, which trustee may be any trust company or banking institution having the powers of a trust company within this state.

(b) Any trust agreement may pledge or assign the infrastructure revenue debt service fund. Any trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section seventeen [§ 31-15A-17] of this article, and covenants setting forth the duties of the water development authority in respect to the payment of the principal of and interest, charges and fees on loans made to, or bond purchases from, governmental agencies from the proceeds of the bonds, and the custody, safeguarding and application of all moneys. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of the infrastructure debt service fund shall furnish such indemnifying bonds or pledge securities as are

required by the water development authority. The trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreements or trust indentures securing similar bonds and notes. The trust agreement may contain such other provisions as the water development authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as part of the cost of the construction, renovation, repair, improvement or acquisition of a project or infrastructure project. (1998, c. 180.)

§ 31-15A-19. Legal remedies of infrastructure revenue bondholders or noteholders and trustees.

Any holder of infrastructure revenue bonds issued pursuant to this article and the trustee under any trust agreement, except to the extent the rights given by this article may be restricted by the applicable resolution or trust agreement, may by civil action, mandamus or other proceedings protect and enforce any rights granted under the laws of this state or granted under this article, by the trust agreement or by the resolution in the issuance of the bonds, and may enforce and compel the performance of all duties required by this article, pursuant to the trust agreement or resolution, to be performed by the water development authority or any officer thereof. (1998, c. 180.)

§ 31-15A-20. Infrastructure revenue bonds lawful investments.

All infrastructure revenue bonds issued pursuant to this article shall be lawful investments for banking institutions, societies for savings, building and loan associations, savings and loan associations, deposit guarantee associations, trust companies, and insurance companies, including domestic for life and domestic not for life insurance companies. (1998, c. 180.)

§ 31-15A-21. Purchase and cancellation of infrastructure revenue bonds.

(a) The water development authority, subject to such agreements with noteholders or bondholders as may then exist, shall have the power, from any funds available therefor, to purchase or redeem infrastructure revenue bonds of the water development authority.

(b) If the infrastructure revenue bonds are then redeemable, the price of the purchase shall not exceed the redemption price then applicable, plus accrued interest to the next interest payment date thereon. If the infrastructure revenue bonds are not then redeemable, the price of the purchase shall not exceed the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption, plus accrued interest to such date. Upon purchase or redemption, the bonds shall be canceled. (1998, c. 180.)

§ 31-15A-22. Refunding revenue bonds.

Any infrastructure revenue bonds issued pursuant to the provisions of this article and at any time outstanding may at any time and from time to time be refunded by the water development authority by the issuance of its refunding revenue bonds in an amount it deems necessary to refund the principal of the bonds to be refunded, together with any unpaid interest thereon, to provide additional funds for the water development authority to accomplish the purpose of this article, and to pay any premiums and commissions necessary to be paid in connection therewith. Any refunding may be effected whether the infrastructure revenue bonds to be refunded shall have then matured or shall thereafter mature: Provided, That the holders of any infrastructure revenue bonds so to be refunded shall not be compelled without their consent to surrender their infrastructure revenue bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding revenue bonds issued pursuant to this article shall be payable from the West Virginia infrastructure revenue debt service fund, and shall be subject to the provisions contained in section seventeen [§ 31-15A-17] of this article, and shall be secured in accordance with the provisions of sections seventeen and eighteen [§ 31-15A-18] of this article. (1998, c. 180.)

§ 31-15A-23. Infrastructure revenue bonds not debt of state, county, municipality or any political subdivision.

Infrastructure revenue bonds issued pursuant to the provisions of this article shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state. The holders or owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds shall be payable solely from the revenues and funds pledged for their payment as authorized by this article. All such bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment. (1998, c. 180.)

§ 31-15A-24. Infrastructure revenue bonds exempt from taxation.

The exercise of the powers granted to the water development authority by this article will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is for a public purpose. As the

construction, acquisition, repair or renovation of projects or infrastructure projects will constitute the performance of essential governmental functions, the water development authority shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by the water development authority or upon the income therefrom. The infrastructure revenue bonds and all interest and income thereon shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except estate taxes. (1998, c. 180.)

ARTICLE 15B.

INFRASTRUCTURE BONDS.

Sec.
31-15B-1. Definitions.
31-15B-2. Infrastructure general obligation bonds; amount; when may issue.
31-15B-3. Creation of debt service fund; disbursements to pay debt service on infrastructure general obligation bonds.
31-15B-4. Infrastructure general obligation debt service fund; sources used to pay bonds and interest; investment of remainder.
31-15B-5. Covenants of state.
31-15B-6. Sale by governor; minimum price.
31-15B-7. Prohibition on funds inuring to the benefit of or being distributable to directors or officers; transactions between the council and West Virginia water development authority and directors or officers having certain interests in such transactions.
31-15B-8. Infrastructure bonds lawful investments.
31-15B-9. Refunding bonds.
31-15B-10. Termination or dissolution.
31-15B-11. Treasurer to determine financial advisor.
31-15B-12. Governor to determine bond counsel.
31-15B-13. Approval and payment of all necessary expenses.

§ 31-15B-1. Definitions.

For purposes of this article and article fifteen-a [§§ 31-15A-1 et seq.] of this chapter:

(a) "Council" means the West Virginia infrastructure and jobs development council created in section three [§ 31-15A-3], article fifteen-a of this chapter;

(b) "Infrastructure amendment" means the amendment to the constitution of this state entitled "infrastructure amendment" as approved by referendum in the month of November, one thousand nine hundred ninety-four;

(c) "Infrastructure general obligation bond" means any bond or bonds issued by the state pursuant to section two [§ 31-15B-2] of this article;

(d) "Water development authority" means the West Virginia water development authority established under article one [§§ 22C-1-1 et seq.], chapter twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties. (1995, c. 130.)

§ 31-15B-2. Infrastructure general obligation bonds; amount; when may issue.

Bonds of the state of West Virginia, under authority of the infrastructure improvement amendment of 1994, of the par value not to exceed in the

BEFORE THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

Be it resolved that the Logan County Commission on its own motion on the 5th May 1975, hereby proposes the creation of a public service district to be known as the Logan County Public Service District. The territory to be embraced in said public service district is as follows:

All of Logan County;

Excluding, however:

All of the municipality of Logan;
All of the municipality of Chapmanville;
All of municipality of Man;
All of the Buffalo Creek Public Service District of the Triadelphia Magisterial District of the County of Logan, West Virginia, more fully described as follows: BEGINNING at a point in the Spring Mountain Lookout Tower, said point being in the Boone-Logan County line 4.25 miles, more or less, to a point in the common corner to Boone-Wyoming and Logan County; thence, southwesterly with the meanders of the Wyoming-Logan County line and with the top of Buffalo Mountain 10.65 miles, more or less, to a point in the 37° - 45' meridian line; thence, due West with said 37° - 45' meridian line 5.85 miles, more or less, to a point in the eastern corporate boundary line of City of Man; thence, due North 1.65 miles, more or less, to a point in the Logan-Triadelphia Magisterial District line; thence northeasterly with the meanders of said Magisterial line 15.95 miles, more or less, to the place of beginning and containing 43.55 square miles (27,870 acres), more or less.

Said territory and said exclusions are more particularly shown by a map of Logan County attached hereto and incorporated as a part hereof and outlined in red.

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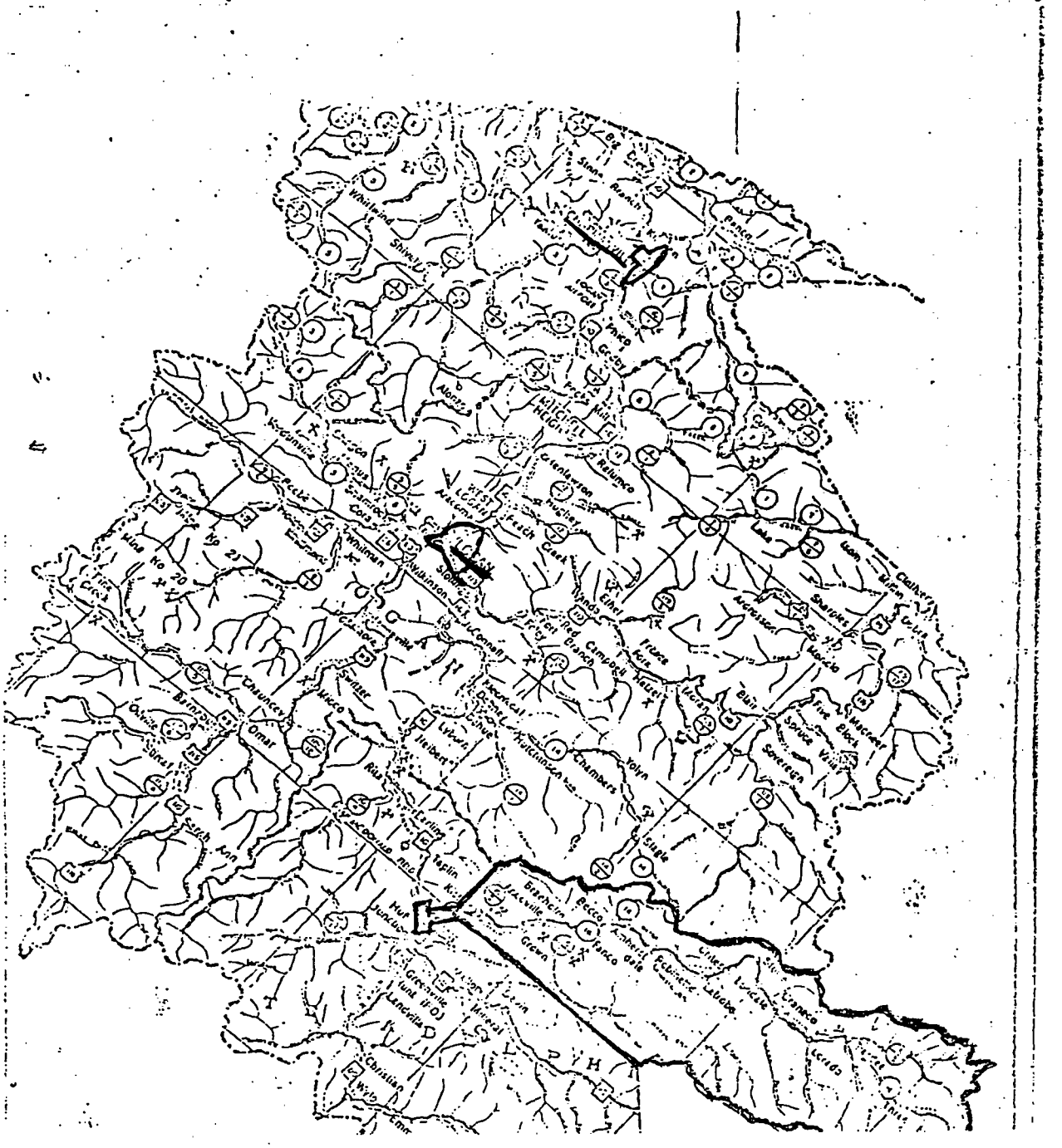
The County Commission further proposes that the Big Creek Public Service District heretofore created by Order of the County Court of Logan County on the 5th day of February, 1973, the Cora-Shamrock-Valley View Public Service District created by Order of the County Court of Logan County, on the 5th day of March, 1973, and the Guyan Public Service District heretofore created by Order of the County Court of Logan County on the 19th day of October, 1973, shall be consolidated with and incorporated into the proposed Logan County Public Service District.

The County Commission further Orders that a public hearing shall be held on the creation of said public service district and the date of said hearing shall be June 5, 1975, at 11 o'clock AM, at Logan County Courthouse. It is further Ordered that the necessary and proper legal advertisements and public notices in compliance with Chapter 16, Article 13A, Section 2 shall be held.

ENTERED this the 5th Day of May 1975.


Whitlwind
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Phico
Alonzo
Greenlawson
Relumco
Feach Creek
Whitman
Wilkinson
Ethel
Red Campbell
Fritz Branch
Frazee Fork
Sharples
Clothier
Macneer
Five Block
Spruce Valley
Sovereign
Blair
Moran
Chambers
Yolyn
Stagle
Chauncey
Omar
Barnsburg
Sarah Ann
Taplin
Hut Junction
Grown
Fanco
Amherst
Robinette
Lebobo
Lancaster
Cranaco
Lorado
Christian
Wylo
Mineral
Greenville
Lendville
Mine No 20
Mine No 21

BEFORE THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

WHEREAS, on the 5th day of May, 1975, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code the County Commission upon its own motion entered an order proposing the creation of a public service district in Logan County, West Virginia, to be known as the Logan County Public Service District.

WHEREAS, the municipality of West Logan has consented to be included within the boundary of the Logan County Public Service District by a resolution of its city council, which resolution is attached hereto and incorporated as a part hereof.

WHEREAS, pursuant to said motion there was on June 5, 1975, at 10:00 a.m. o'clock there was a public hearing at Room 104, Court House, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notices of publication and all persons residing in or on or having any interest in property in said proposed district had an opportunity to be heard for and against its creation, at which hearing the County Commission determined that the creation of such public service district was feasible and recessed the hearing until the 30th day of June, 1975, at 10:00 a.m. o'clock for further consideration.

WHEREAS, on the 30th day of June, 1975, the public hearing on the creation of the Logan County Public Service District was reconvened and the County Commission of Logan County has determined that the creation of a county-wide public service district within Logan County would be conducive

to the preservation of public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County does hereby ORDER the establishment of and does establish and create a public service district under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Statutory Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall be known as Logan County Public Service District.

It is further ORDERED that the Logan County Public Service District shall embrace the following territory:

All of Logan County;

Excluding, however:

All of the municipality of Logan;
All of the municipality of Chapmanville;
All of the municipality of Man;
All of the Buffalo Creek Public Service District of the Triadelphia Magisterial District of the County of Logan, West Virginia, more fully described as follows: BEGINNING at a point in the Spring Mountain Lookout Tower, said point being in the Boone-Logan County line; thence, southeasterly with the meanders of said Boone-Logan County line 4.25 miles, more or less, to a point in the common corner to Boone-Wyoming and Logan County; thence, southwesterly with the meanders of the Wyoming-Logan County line and with the top of Buffalo Mountain 10.65 miles, more or less, to a point in the 37° - 45' meridian line; thence, due West with said 37° - 45' meridian line 5.85 miles, more or less, to a point in the eastern corporate boundary line of City of Man; thence, due North 1.65 miles, more or less, to a point in the Logan-Triadelphia Magisterial District line; thence northeasterly with the meanders of said Magisterial line 15.95 miles, more or less, to the place of beginning and containing 43.55 square miles (27,870 acres), more or less.

Said territory and said exclusions are more particularly shown by a map of Logan County attached hereto and incorporated as a part hereof and outlined in red.

It is further ORDERED that the Big Creek Public Service District heretofore created by Order of the County Court of Logan County on the 5th Day of February, 1973, the Corn-Shamrock-Valley View Public Service District created by Order of the County Court of Logan County, on the 5th day of March, 1973, and the Guyan Public Service District heretofore created by Order of the County Court of Logan County on the 19th day of October, 1973, shall be and hereby are consolidated with and incorporated into the Logan County Public Service District.

The establishment and creation of the Logan County Public Service District, embracing the territory above described, shall be effective upon the receipt and filing of a resolution in proper form by the City of Mitchell Heights, whereby the municipality of Mitchell Heights consents to be included within the boundary of the proposed public service district.

Done this the 20th day of June, 1975.

ENTER:

PRESIDENT

RESOLUTION

WHEREAS, on the 5th day of May, 1975, the County Commission of Logan County will consider proposing the creation of a public service district within Logan County, to be known as the Logan County Public Service District, and to include the following territory:

All of Logan County;

Excluding, however:

All of the municipality of Logan;
All of the municipality of Chapmanville;
All of the municipality of Man; and
All of the Buffalo Creek Public Service District of the Triadelphia Magisterial District of the County of Logan, West Virginia.

WHEREAS, the municipality of West Logan cannot be included within the boundaries of this proposed public service district without its consent;

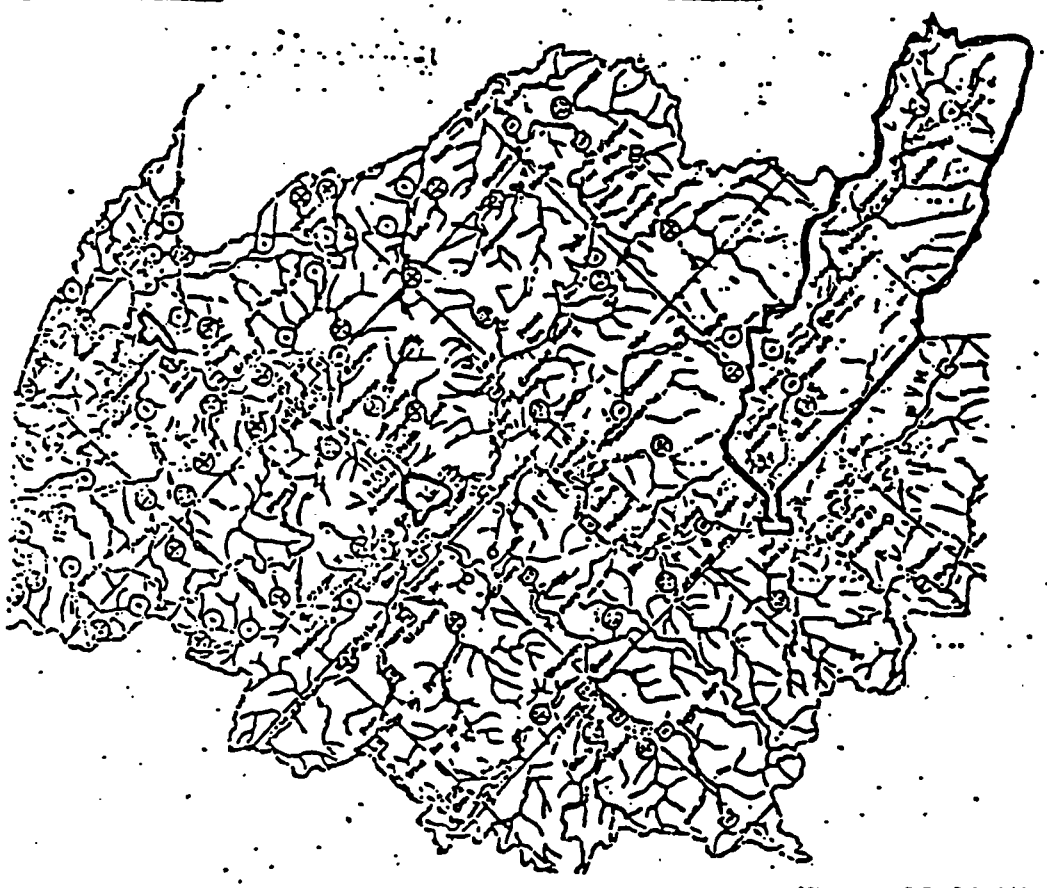
WHEREAS, the City Council of West Logan believes that the proposed public service district will be conducive to the preservation of the public health, comfort and convenience of the municipality of West Logan and all of Logan County;

THEREFORE, BE IT RESOLVED that the municipality of West Logan does hereby consent to be included within the boundaries of the proposed public service district.

Dated this 14th day of April, 1975.

Jimmy L. Owens
Mayor

ygals	3 Legals	1 Legals	1 Legals



RESOLUTION

WHEREAS, on the 1st day of [illegible], 1975, the County Commission of Logan County will consider proposing the creation of a public service district within Logan County, to be known as the Logan County Public Service District, and to include the following territory:

All of Logan County;

Excluding, however:

All of the municipality of Logan;
All of the municipality of Chapmanville;
All of the municipality of Man; and
All of the Buffalo Creek Public Service District of the Triadelphia Magisterial District of the County of Logan, West Virginia.

WHEREAS, the municipality of Mitchell Heights cannot be included within the boundaries of this proposed public service district without its consent;

WHEREAS, the City Council of Mitchell Heights believes that the proposed public service district will be conductive to the preservation of the public health, comfort and convenience of the municipality of Mitchell Heights and all of Logan County;

THEREFORE, BE IT RESOLVED that the municipality of Mitchell Heights does hereby consent to be included within the boundaries of the proposed public service district, subject to and upon the following conditions:

1. All construction within the Town of Mitchell Heights shall comply with the ordinances of the town, including those hereafter enacted.

2. The location of and plans for all facilities in the Town must have the prior written approval of the Town of Mitchell Heights.

Dated this 3 day of SEPTEMBER, 1975.

David K. McClister, Mayor

Upon motion this meeting is continued and adjourned to the next Regular Session to be held on Friday, September 5, 1975, at 10:00 o'clock A. M.

PRESIDENT

RESOLUTION

WHEREAS, on the 5th day of April, 1994 the County Commission of Logan County, West Virginia passed a resolution proposing the enlargement of the Loga County Public Service District to include the following territory in Wyoming County:

> Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County line in a northeasterly direction approximately 58,000 feet, more or less, to a point located at the intersection of the Logan, Wyoming and Boone County lines; thence, following the Wyoming and Boone County line in a southeasterly direction approximately 14,200 feet to a point on Huff Mountain having an elevation of 3,177 feet M.S.L.; thence, on a straight line in a southwesterly direction approximately 19,800 feet to a point known as Panther Knob; thence, on a straight line in a Westerly direction approximately 10,400 feet, more or less, to a point known as Upper Gap; thence, on a straight line in a southwesterly direction approximately 14,000 feet to a point located at the intersection of the Logan and Wyoming County lines; thence, following the Logan and Wyoming County line in a northwesterly direction approximately 19,600 feet, more or less, to the point of beginning.

WHEREAS, this territory is not included within the boundaries of any existing Public Service District;

WHEREAS, the County Commission of Wyoming County, West Virginia believes that the inclusion of the afore-described territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Wyoming County;

THEREFORE, BE IT RESOLVED that the County Commission of Wyoming County, West Virginia, does hereby consent to the enlargement of Logan County Public Service District to include the above described territory.

Dated this 5th day of April, 1994.

President

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT

WHEREAS, on the 5th day of April, 1994, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code the County Commission of Logan County, West Virginia, upon its own motion entered on order proposing the enlargement of Logan County Public Service District into the Huff Creek area of Wyoming County, West Virginia.

WHEREAS, the County Commission of Wyoming County, West Virginia has consented to have the Huff Creek area included within the boundary of the Logan County Public Service District by resolution, which is attached and incorporated as part hereof.

WHEREAS, pursuant to said motion there was on May 5, 1994 at 6:00 p.m. o'clock there was a public hearing at Room 104 of the Logan County Courthouse, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notices of publication and all persons residing in or on or having any interest in property in said proposed additional territory had an opportunity to be heard for and against its enlargement at which hearing the County Commission of Logan County, West Virgin determined that the enlargement of Logan County Public Service District to include the Huff Creek area of Wyoming County, West Virginia was feasible and would be conducive to the preservation of public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County, West Virginia does hereby ORDER the enlargement of and does enlarge the Logan County Public Service District under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall continue to be known as Logan County Public Service District.

It is further ORDERED that the area or portion of Wyoming County to be included in the Logan County Public Service District is as follows:

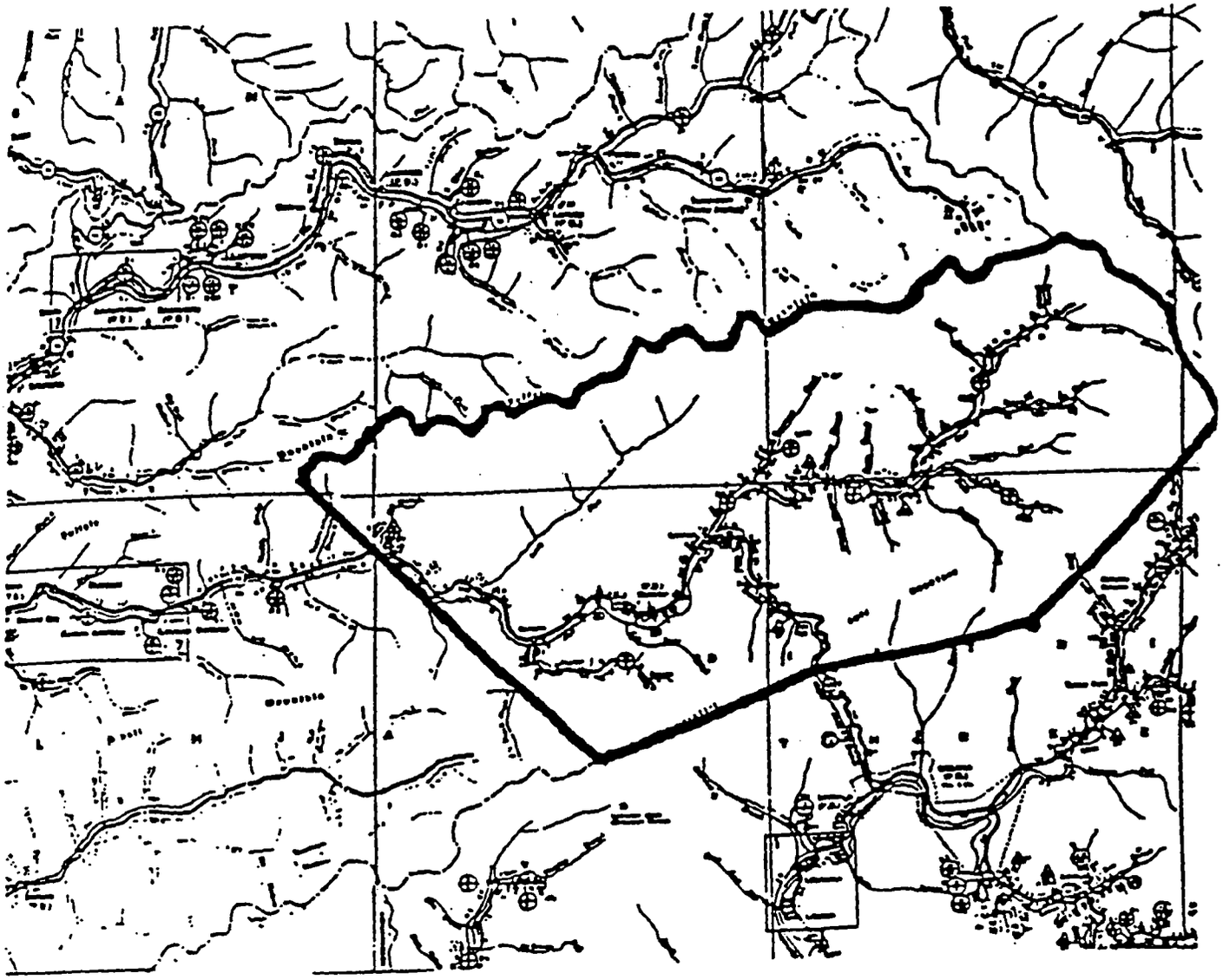
> Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County line in a northeasterly direction approximately 58,000 feet, more or less, to a point located at the intersection of the Logan, Wyoming and

Boone County lines; thence, following the Wyoming and Boone County line in a southeasterly direction approximately 14,200 feet to a point on Huff Mountain having an elevation of 3,177 feet M.S.L.; thence, on a straight line in a southwesterly direction approximately 19,200 feet to a point known as Panther Knob; thence, on a straight line in a Westerly direction approximately 10,400 feet, more or less, to a point known as Upper Gap; thence, on a straight line in a southwesterly direction approximately 14,000 feet to a point located at the intersection of the Logan and Wyoming County lines; thence, following the Logan and Wyoming County line in a northwesterly direction approximately 19,600 feet, more or less, to the point of beginning. Said territory is more particularly shown on a map attached hereto and incorporated as a part herof and outline in black.

The enlargement of Logan County Public Service District as ordered herein shall be effective on the date of the Final Order issued by the Public Service Commission of West Virginia.

ENTERED this 5TH day of May, 1994.

Mark S. Spurlock, M.D., PRESIDENT
LOGAN COUNTY COMMISSION



ORIGINAL

ENTERED
O.R. 94-Q Page

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
10-18-94

Entered: September 28, 1994

CASE NO. 94-0403-PWD-PC

LOGAN COUNTY COMMISSION and
WYOMING COUNTY COMMISSION
Petition to expand boundaries of
Logan County Public Service District
into the Huff Creek area of Wyoming County.

RECOMMENDED DECISION

On May 6, 1994, the Logan and Wyoming County Commissions filed with the Public Service Commission (Commission) a petition to approve the extension of the boundaries of the Logan County Public Service District into the Huff Creek area of Wyoming County, accompanied by documentation of the procedures followed by the Logan and Wyoming County Commissions, including a May 5, 1994, Order of the Logan County Commission expanding the boundaries.

On June 16, 1994, Staff Attorney Ronald E. Robertson, Jr., filed the Initial and Final Joint Staff Memorandum, with an attached memorandum from Robert M. Hubbard, Senior Utilities Analyst for the Public Service District Division of the Commission. Mr. Robertson stated that the boundary expansion will extend only into the Huff Creek area of Wyoming County. He further stated that, after approval of the expansion by the Wyoming County Commission, public hearing was held in Logan, West Virginia, on May 5, 1994, with notice posted and published in both Logan and Wyoming Counties. Mr. Robertson opined that the Logan and Wyoming County Commissions have substantially complied with the requirements of W.Va. Code §16-13A-2 and stated that Staff recommends approval of the expansion. Mr. Hubbard's memorandum stated that the expansion is necessary to provide water service to potential customers along West Virginia Route 10 in the Huff Creek area and will not conflict with any other public service district territories.

On June 27, 1994, the Commission issued an Order referring this matter to the Division of Administrative Law Judges (ALJ Division) for decision to be issued no later than December 7, 1994.

On July 14, 1994, the undersigned ALJ issued a Procedural Order stating that, under Code §16-13A-2, the Commission is required to provide a hearing "in the affected county" any time a county commission petitions to expand the boundaries of a public service district. The undersigned ALJ accordingly scheduled this matter for hearing on September 8, 1994, at 10:30 a.m. in the County Commissioners' Courtroom, Wyoming County Courthouse, Pineville, West Virginia, and at 2:30 p.m. in Courtroom No. 2, Room

RZH

307, Logan County Courthouse, Logan, West Virginia. Also ordered was publication of the Notice of Hearing in newspapers duly qualified by the Secretary of State, published and of general circulation in Logan and Wyoming Counties.

The bifurcated hearing was held as scheduled. Mr. Robertson appeared on behalf of Staff and submitted into evidence as Staff Ex. 1 the Initial and Final Joint Staff Memorandum. Mr. Hubbard was also present. James A. Walker, Esq., appeared on behalf of the Logan County Public Service District, and called the only witness, Charles R. Roberts, Jr., the Managing Engineer for the Logan County Public Service District, who made the following statement:

> The Logan County Public Service District has a water treatment facility located in Greenville and the attached distribution system comes very near the proposed area that the enlargement's going to cover. It is also in the same drainage as the existing system.
>
> The Logan County Public Service District approached the Wyoming County Commission to enlarge its boundaries into that area so that that system could be extended into Wyoming County.
>
> The capacity is present. It was designed with the Wyoming County area in mind. The Logan County Public Service District and the Wyoming County Commission both feel that this will be the most -- the quickest way to get water to the residents in the area to be included in the Logan County PSD.

(Tr. 5-6). Submitted into evidence as Logan Ex. 1 and 2, respectively, were affidavits of publication establishing that the Notice of Hearing was published on August 24, 1994, in the Independent Herald of Pineville, and on August 29, 1994, in The Logan Banner. No protestants appeared at hearing.

The transcript was filed on September 14, 1994.

FINDINGS OF FACT

1. The Logan and Wyoming County Commissions petitioned the Public Service Commission to approve an extension of the boundaries of the Logan County Public Service District into the Huff Creek area of Wyoming County, providing documentation of the procedures followed by the Logan and Wyoming County Commissions, including a May 5, 1994, Order of the Logan County Commission so expanding the boundaries. (See petition filed May 6, 1994).

2. Commission Staff recommended approval of the proposed expansion. (See Staff Exhibit 1).

3. Notice of Hearing was published on August 24, 1994, in the Independent Herald of Pineville, and on August 29, 1994, in The Logan Banner. (See Logan Exhibit 1 and 2).

4. No protestants appeared at the public hearing held on September 8, 1994, in Pineville and Logan, West Virginia. (Tr. 4, 10).

CONCLUSION OF LAW

Since a public hearing was held in Wyoming and Logan Counties on the petition filed by the Wyoming and Logan County Commissions and no one appeared at hearing to make protest to the petition, after proper publication was made, and since Staff has recommended granting the petition to expand the boundaries of the Logan County Public Service District into the Huff area of Wyoming County, it is determined that said petition should be granted as an unprotested case.

ORDER

IT IS, THEREFORE, ORDERED that the petition of the Wyoming and Logan County Commission, filed on May 6, 1994, to expand the boundaries of the Logan County Public Service District into the Huff Creek area of Wyoming County be, and it hereby is, granted, and the May 5, 1994, order of the Logan County Commission authorizing such expansion be, and it hereby is, approved.

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

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

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

Sunya Anderson
Administrative Law Judge

SA:mal

RESOLUTION

WHEREAS, on the 5th day of October, 1994, the County Commission of Logan County, West Virginia adopted an order proposing the enlargement of Logan County Public Service District to include the following territory in Lincoln County as further identified on the attached map:

> Beginning at a point at the intersection of the Lincoln, Wayne and Mingo County lines, thence, following said Lincoln and Mingo County line in a northeasternly direction approximately 34,850 feet, more or less to its intersection with the Logan County line; thence, following said Lincoln and Logan County line in a northeasternly direction approximately 84,450 feet, more or less to its intersection with the Boone County line; thence following said Lincoln and Boone County line in a northeasternly direction approximately 8,970 feet, more or less, to a point located on the eastern extreme of said county line; thence, following said Lincoln and Boone County line in a northwesternly direction approximately 39,600 feet, more or less, to a point having a latitude of N. 38° 05' located on said county line; thence, following a straight line due west approximatley 33, 790 feet, more or less, to a point having a latitude of N.38° 05' and a longitude of W. 82° 05'; thence, following a straight line in a southwesternly direction approximately 23,760 feet, more or less, to a point on West Virginia Route 10 at the top of Fourteen Mile Mountain; thence, following a straight line in a southwesternly direction approximately 13,200 feet, more or less, to a point on the Lincoln and Wayne County line located on said line approximately 5,000 feet north of its intersection with County Route 68; thence, following said Lincoln and Wayne County line in a southeasternly direction approximately 51,750 feet, more or less, to the point of beginning.

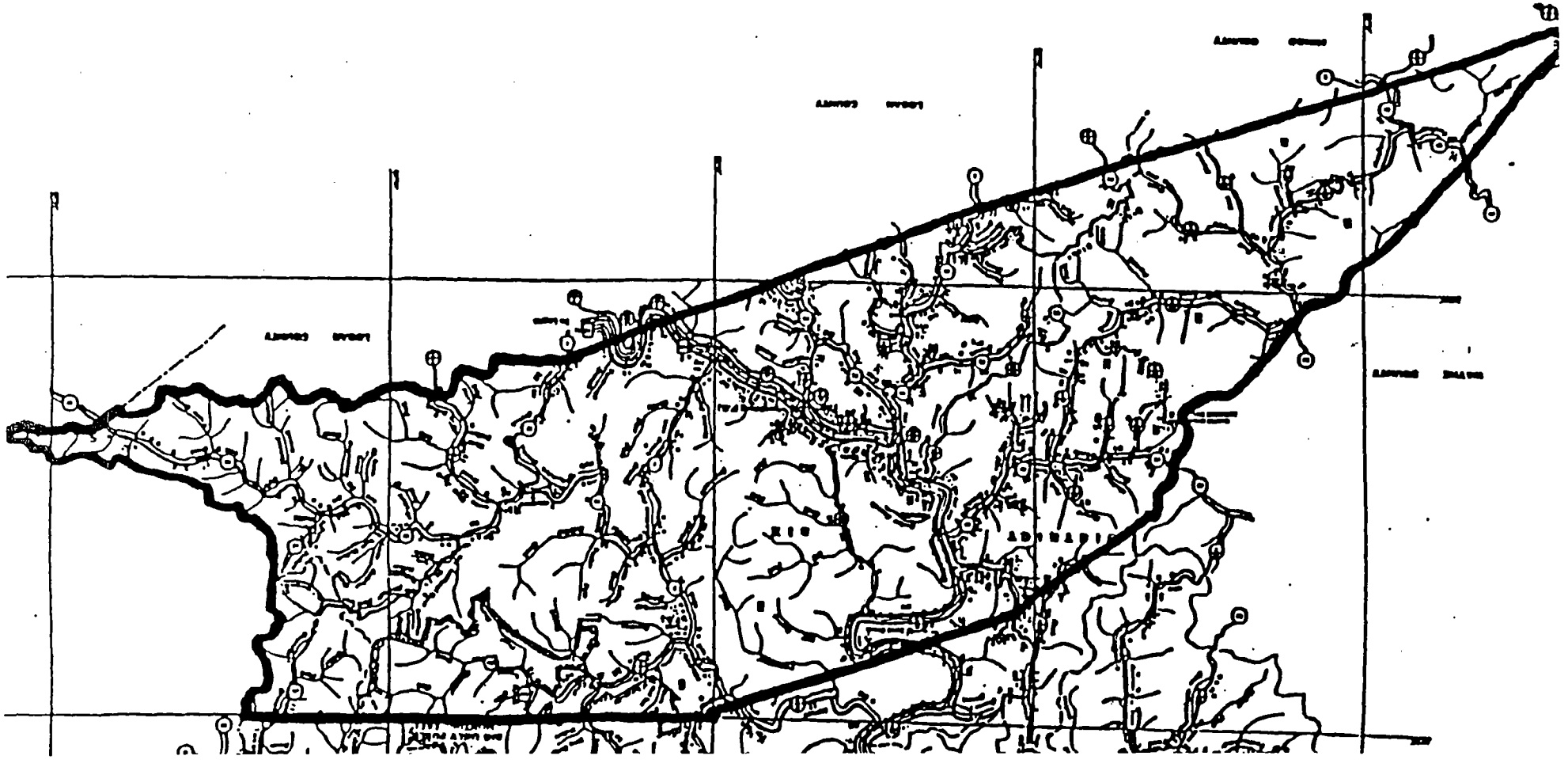
WHEREAS, previously on the 6th day of October, 1994, the County Commission of Lincoln County, West Virginia, adopted an order dissolving the Ranger-Harts Public Service District. THEREFORE, the area of Lincoln County to be included in Logan County Public Service District is not included within the boundaries of any existing Public Service District;

WHEREAS, the County Commission of Lincoln County, West Virginia believes that the inclusion of the afore-discribed territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Lincoln County;

THEREFORE, BE IT RESOLVED that the County Commission of Lincoln County, West Virginia, does hereby consent to the enlargement of Logan County Public Service District to include the above described territory.

Dated this 6th day of October, 1994.

President, Lincoln County Commission



IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT

WHEREAS, on the 5th day of October, 1994, pursuant to Chapter 16, Article 13A, Section 2, of the West Virginia Code the County Commission of Logan County, West Virginia, upon its own motion entered on order proposing the enlargement of Logan County Public Service District into the Southern portion of Lincoln County, West Virginia.

WHEREAS, the County Commission of Lincoln County, West Virginia has consented to have this area included within the boundary of the Logan County Public Service District by resolution, which is attached and incorporated as part hereof.

WHEREAS, pursuant to said motion there was on October 7, 1994, at 6:00 p.m. o'clock there was a public hearing at Room 104 of the Logan County Courthouse, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notices of publication and all persons residing in or on or having any interest in property in said proposed additional territory had an opportunity to be heard for and against its enlargement at which hearing the County Commission of Logan County, West Virginia determined that the enlargement of Logan County Public Service District to include the southern portion of Lincoln County, West Virginia was feasible and would be conducive to the preservation fo public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County, West Virginia does hereby ORDER the enlargement of and does enlarge the Logan County Public Service District under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall continue to be known as Logan County Public Service District

It is further ORDERED that the area or portion of Lincoln County to be included in the Logan County Public Service District is as follows:

> Beginning at a point at the intersection of the Lincoln, Wayne and Mingo County lines, thence, following said Lincoln and Mingo County line in a northeasternly direction approximately 34, 850 feet, more or less to its intersection with the

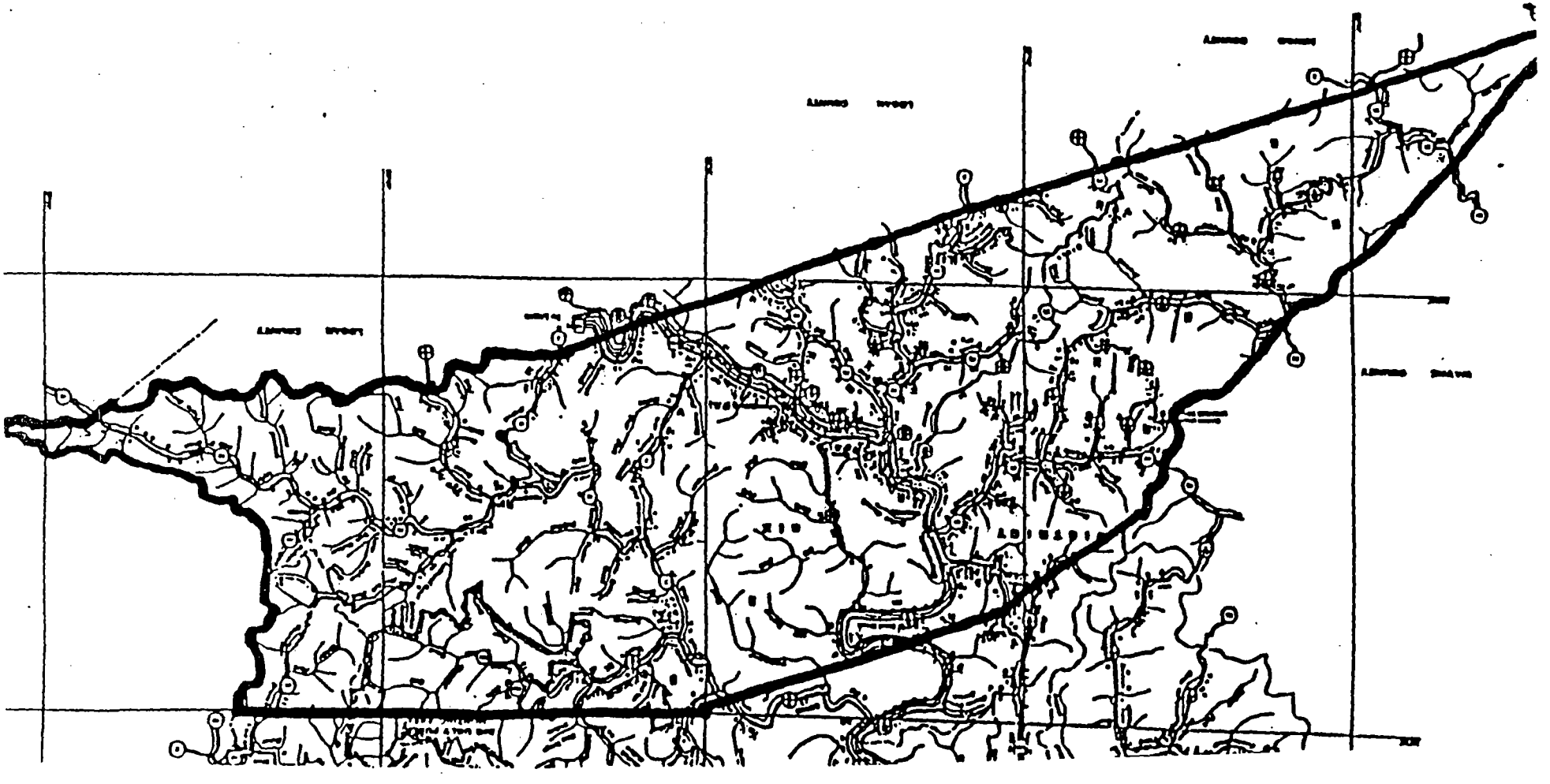
Logan County line; thence, following said Lincoln and Logan County line in a northeasterly direction approximately 84,450 feet, more or less, to its intersection with the Boone County line; thence, following said Lincoln and Boone County line in a northeasterly direction approximately 8,970 feet, more or less, to a point located on the eastern extreme of said county line; thence, following said Lincoln and Boone County line in a northwesterly direction approximately 39,600 feet, more or less, to a point having a latitude of N. 38° 05' located on said county line; thence, following a straight line due west approximately 33,790 feet, more or less, to a point having a latitude of N. 38° 05' and a longitude of W. 82° 05'; thence, following a straight line in a southwesterly direction approximately 23,760 feet, more or less, to a point on West Virginia Route 10 at the top of Fourteen Mile mountain; thence, following a straight line in a southwesterly direction approximately 13,200 feet, more or less, to a point on the Lincoln and Wayne County line located on said line approximatley 5,000 feet north of its intersection with County Route 68; thence, following said Lincoln and Wayne County line in a southeasterly direction approximately 51,750 feet, more or less, to the point of beginning.

The enlargement of Logan County Public Service District as ordered herein shall be effective on the date of the Final Order issued by the Public Service Commission of West Virginia.

ENTERED this 7th day of November, 1994.

Mark S. Spurlock, M.D., PRESIDENT

LOGAN COUNTY COMMISSION



ORIGINAL

ENTERED
O.B. 95 Page

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
5-3-95

Entered: April 13, 1995

CASE NO. 94-0889-PWD-PC

LINCOLN COUNTY COMMISSION,
Hamlin, Lincoln County.
Petition to dissolve Ranger-Harts
Public Service District.

CASE NO. 94-1065-PWD-PC

LOGAN COUNTY COMMISSION,
Logan, Logan County.
Petition to expand boundaries of
Logan County Public Service District
into Harts Creek area of Lincoln County.

RECOMMENDED DECISION

Case No. 94-0899-PWD-PC

On October 10, 1994, the Lincoln County Commission filed a petition requesting approval by the Public Service Commission (Commission) to dissolve the Ranger-Harts Public Service District (Ranger-Harts PSD). Included in the documentation was an October 6, 1994 order of the Lincoln County Commission authorizing dissolution of the Ranger-Harts Public Service District.

On December 16, 1994, Staff Attorney Ronald E. Robertson, Jr., filed the Initial and Final Joint Staff Memorandum, with attached memorandum from Charles Knurek, Utility Financial Analyst, Public Service District Division of the Commission. Mr. Knurek stated that the Lincoln County Commission informed him that the Ranger-Harts PSD is inactive, does not own or operate any existing facilities, and does not have any existing board members. Mr. Robertson stated that the dissolution of the Ranger-Harts PSD would provide the Logan County Public Service District (Logan County PSD) the opportunity to expand into the service area of the Ranger-Harts PSD, which is the subject of Case No. 94-1065-PWD-PC. Mr. Robertson further stated that it is the view of the Commission Staff that the Lincoln County Commission has substantially complied with the requirements of W.Va. Code §16-13A-2, and, therefore, Commission Staff recommends approval of the petition for dissolution, contingent upon hearing in Lincoln County. Finally, Mr. Robertson recommended that this

matter and Case No. 94-1065-PWD-PC be consolidated and heard together because of the related issues they involve.

Case No. 94-1065-PWD-PC

On November 9, 1994, the Logan County Commission filed a petition requesting the Commission's approval for enlarging the boundaries of the Logan County PSD into the southern portion of Lincoln County generally referred to as the Harts Creek area. Included in the documentation was an Order 5, 1994 Order of the Logan County Commission proposing the enlargement and an October 6, 1994 Order of the Lincoln County Commission accepting the proposed enlargement.

On December 20, 1994, Mr. Robertson filed the Initial Joint Staff Memorandum, with attached memorandum from Mr. Knurek. Commission Staff stated that it was reviewing this matter, and, upon completion of its review, would make its final recommendation. Finally, Mr. Robertson recommended consolidation of this matter with Case No. 94-0899-PWD-PC.

On January 11, 1995, Mr. Robertson filed an Initial and Final Joint Staff Memorandum, with attached memorandum from Mr. Knurek. Mr. Robertson stated that it is the view of Commission Staff that the Logan County Commission has substantially complied with the requirements of Code §16-13A-2 and that hearing should be held in Logan County or in both Logan and Lincoln Counties.

Case Nos. 94-0889-PWD-PC and 94-1065-PWD-PC

On December 27, 1994, the Commission issued an Order Consolidating and Referring, consolidating the two cases and referring them to the Division of Administrative Law Judges (ALJ Division) for decision on or before June 7, 1995.

On January 18, 1995, the undersigned ALJ issued a Procedural Order scheduling these matters for hearing on March 7, 1995, at 10:30 a.m. in the County Commissioners' Courtroom, Lincoln County Courthouse, Hamlin, West Virginia, and at 1:00 p.m. in the County Commissioners' Courtroom, Logan County Courthouse, Logan, West Virginia. It was also ordered that the Lincoln County Commission cause to be published for public legal notice a copy of an attached Notice of Hearing once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Lincoln County, West Virginia, and that the Logan County Commission cause to be published for public legal notice a copy of the attached notice once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Logan County, West Virginia. Publication was required to be not more than twenty days and not less than five days prior to the date of hearing, with the date of publication counting as the first day.

On January 20, 1995, the undersigned ALJ issued a Procedural Order that, due to a typographical error on the notice attached to the January 18, 1994, order, substituted a corrected Notice of Hearing. The Petitioners were advised that the publication requirements of the prior order applied to the publication of the revised notice.

On March 6, 1995, Rick Roberts, Managing Engineer for the Logan County Public Service District, filed affidavits of publication establishing that the revised Notice of Hearing was published on February 22, 1995, in The Lincoln Journal and The Logan Banner.

Hearing was held as scheduled. Appearing at hearing in Hamlin, Lincoln County, was Mr. Robertson, representing Commission Staff, and making appearances for the petitioners were Mr. Roberts and members of the Lincoln County Commission, Doug Waldron, Buster Stowers, and Paul Duncan, President. Entered into the record were the affidavits of publication in The Lincoln Journal (Petitioner No. 1) and The Logan Banner (Petitioner No. 2) and Commission Staff's Initial and Final Joint Staff Memorandum in Case No. 94-0889-PWD-PC (Staff No. 1). Appearing at hearing in Logan, Logan County, were Mr. Robertson and Mr. Roberts, and entered into the record was the Commission Staff's Initial and Final Joint Staff Memorandum in Case No. 94-1065-PWD-PC (Staff No. 2). No protestant appeared at either segment of hearing. (Tr. 5-6).

On March 21, 1994, the transcript of hearing was filed.

FINDINGS OF FACT

1. On October 10, 1994, the Lincoln County Commission filed a petition requesting approval by the Commission to dissolve the Ranger-Harts Public Service District, with an attached October 6, 1994 order of the Lincoln County Commission authorizing dissolution of the Ranger-Harts Public Service District. (See petition).

2. On November 9, 1994, the Logan County Commission filed a petition requesting the approval by the Commission to enlarge the boundaries of the Logan County Public Service District into the southern portion of Lincoln County generally referred to as the Harts Creek area, with an attached October 5, 1994 order of the Logan County Commission proposing the enlargement and an October 6, 1994 order of the Lincoln County Commission accepting the proposed enlargement. (See petition).

3. The cases were consolidated by the Commission because the area of expansion of the Logan County Public Service District would consist of most of the area presently within the boundaries of the Ranger-Harts Public Service District, plus some area outside the service area of any utility. (See Commission order of December 27, 1994; Staff Exhibit 1).

4. Commission Staff recommended approval of the petitions. (See Staff Exhibits 1 and 2).

5. Notice of hearing was published on February 22, 1995, in The Lincoln Journal and The Logan Banner and no protestant to either petition appeared at hearing held on March 7, 1995 in Hamlin, Lincoln County, and Logan, Logan County. (See Tr. 5-6).

CONCLUSION OF LAW

Since a public hearing was held in Lincoln and Logan Counties on the petition filed by the Lincoln County Commission to dissolve the Ranger-Harts Public Service District and on the petition filed by the Logan County Commission to expand the boundaries of the Logan County Public Service District into the Harts Creek area of Lincoln County and no one appeared at hearing to make protest to the petitions, after proper publication was made, and since Commission Staff has recommended granting said petitions, it is determined that said petitions should be granted as unprotested cases.

ORDER

IT IS, THEREFORE, ORDERED that the petitions of the Lincoln County Commission and the Logan County Commission filed, respectively, on October 10, 1994, and November 9, 1994, be, and they hereby are, granted, and the October 5 and 6, 1994 orders of said County Commissions authorizing the dissolution of the Ranger-Harts Public Service District and the expansion of the boundaries of the Logan County Public Service District into the Harts Creek area of Lincoln County be, and they hereby are, approved.

IT IS FURTHER ORDERED that these matters be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that the Executive Secretary serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

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

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

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

Sunya Anderson
Administrative Law Judge

SA:mal

R E S O L U T I O N

WHEREAS, on the 5th day of September, 1997, the Coun Commission of Logan County, West Virginia adopted an ord proposing the enlargement of Logan County Public Service Distri to include the following territory in Mingo County as furth identified on the attached map marked as Exhibit A:

> Beginning at a point in the Logan County/Mingo County community of Verner at the intersection of the midpoint of the Guyandotte River and the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 14,500 feet, more or less, to a point on top of Verner Mountain, said point having an elevation of 2,426 M.S.L., thence, following a straight line in a south, southwesterly direction approximately 4,000 feet, more or less, to a point on the ridgeline separating the Spice Creek and Leatherwood Creek drainages at its intersection with Mingo County Route 12, thence, following a straight line due west approximately 11,900 feet, more or less, to a point in the center of the Guyandotte River, thence, following the midpoint of the Guyandotte River downstream in a northerly direction approximately 7,200 feet, more or less, to a point in the center of the Guyandotte River located approximately 2,500 feet, more or less, upstream of the confluence of Sylvia Branch and the Guyandotte River, thence, following a straight line in a west, northwesterly direction approximately 5,940 feet, more or less, to a point atop a mountain peak having an elevation of 1,850 feet M.S.L., thence, following a straight line due north approximately 3,340 feet, more or less, to the point of intersection of said line with the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 15,000 feet, more or less, to the point of beginning.

WHEREAS, previously on the 1st day of October, 1997, County Commission of Mingo County, West Virginia, adopted an or reducing the size of the Mingo County Public Service District deleting the above described territory in Mingo County as furtl identified on the attached map marked as Exhibit A from the Mi County Public Service District. **THEREFORE**, the area of Mingo Cour to be included in Logan County Public Service District is r included within the boundaries of any existing Public Servi District; and,

WHEREAS, the County Commission of Mingo County, West Virgin believes that the inclusion of the afore-described territory in tl Logan County Public Service District will be conducive to tl preservation of the public health, comfort and convenience of tl residents of this area of Mingo County;

THEREFORE, BE IT RESOLVED that the County Commission of Ming County, West Virginia, does hereby consent to the enlargement o Logan County Public Service District to include the above describe territory.

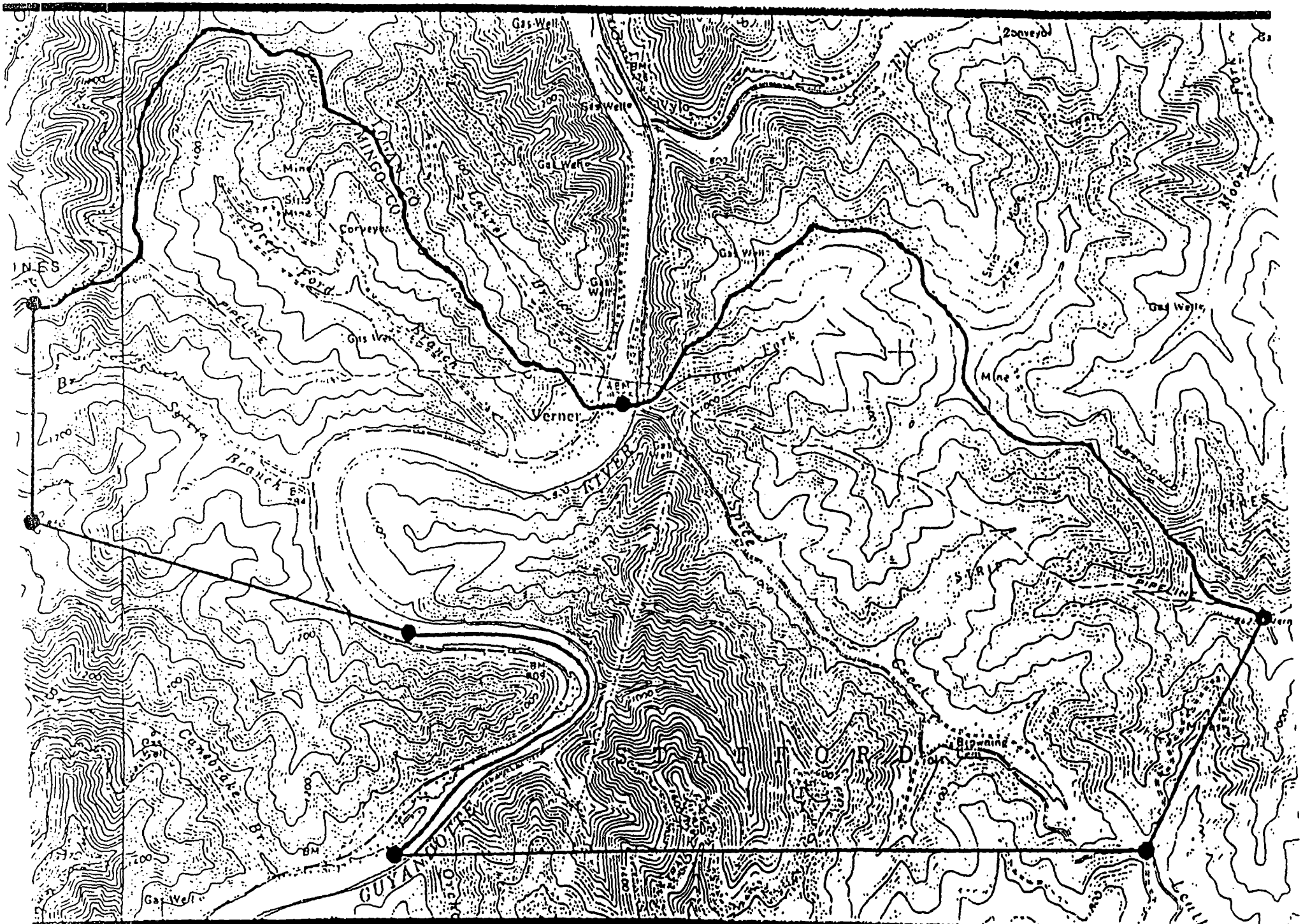
Dated this 1st day of October, 1997.

MINGO COUNTY COMMISSION

Mr. Larry Cline, President

Mr. Curtis Fletcher, Commissioner

Mr. Jim Hatfield, Commissioner



Gas Well
Conveyor
Mine
Silo Mine
Conveyor
Gas Well
Gas Well
Gas Well
Gas Well
Gas Well
Gas Well
Gas Well
Gas Well
Mine
Mine
Verner
Vylo
Elk
Moore
Fork
Branch
Branch
Pipeline
Pipeline
Strip
Creek
Browning
Canebrake Br
Guyandotte
Stafford
Gas Well

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT

WHEREAS, on the 5th day of September, 1997, pursuant Chapter 16, Article 13A, Section 2, of the West Virginia Cod 1931, as amended, the County Commission of Logan County, V Virginia, upon its own motion entered an order proposing enlargement of Logan County Public Service District into the Ver and Spice Creek areas of Mingo County, West Virginia; and,

WHEREAS, the County Commission of Mingo County, West Virgi has consented to have this area included within the boundary of Logan County Public Service District by resolution, which attached hereto, and incorporated as part hereof; and,

WHEREAS, pursuant to said motion, on October 6, 1997 at 6 o'clock p.m. there was a public hearing at Room 104 of the Lo County Courthouse, Logan, West Virginia, held in accordance w: Chapter 16, Article 13A, Section 2 of the West Virginia Code 1931, as amended, with the proper notices of publication and a persons residing in or on or having any interest in property said proposed additional territory had an opportunity to be hea for and against its enlargement at which hearing the Coun Commission of Logan County, West Virginia, determined that t enlargement of Logan County Public Service District to include t Verner and Spice Creek areas of Mingo County, West Virginia w feasible and would be conducive to the preservation of publ health, comfort and convenience of said area. Therefore, up proper motion and second the County Commission of Logan Count West Virginia, does hereby ORDER the enlargement of and do enlarge the Logan County Public Service District under th provisions of Chapter 16, Article 13A, Section 2 of the Wes Virginia Code of 1931, as amended, to have all of the power numerated in said Chapter and Article. Said Public Servic District shall continue to be known as Logan County Public Servic District.

It is further ORDERED that the area or portion of Mingo Count to be included in the Logan County Public Service District is a

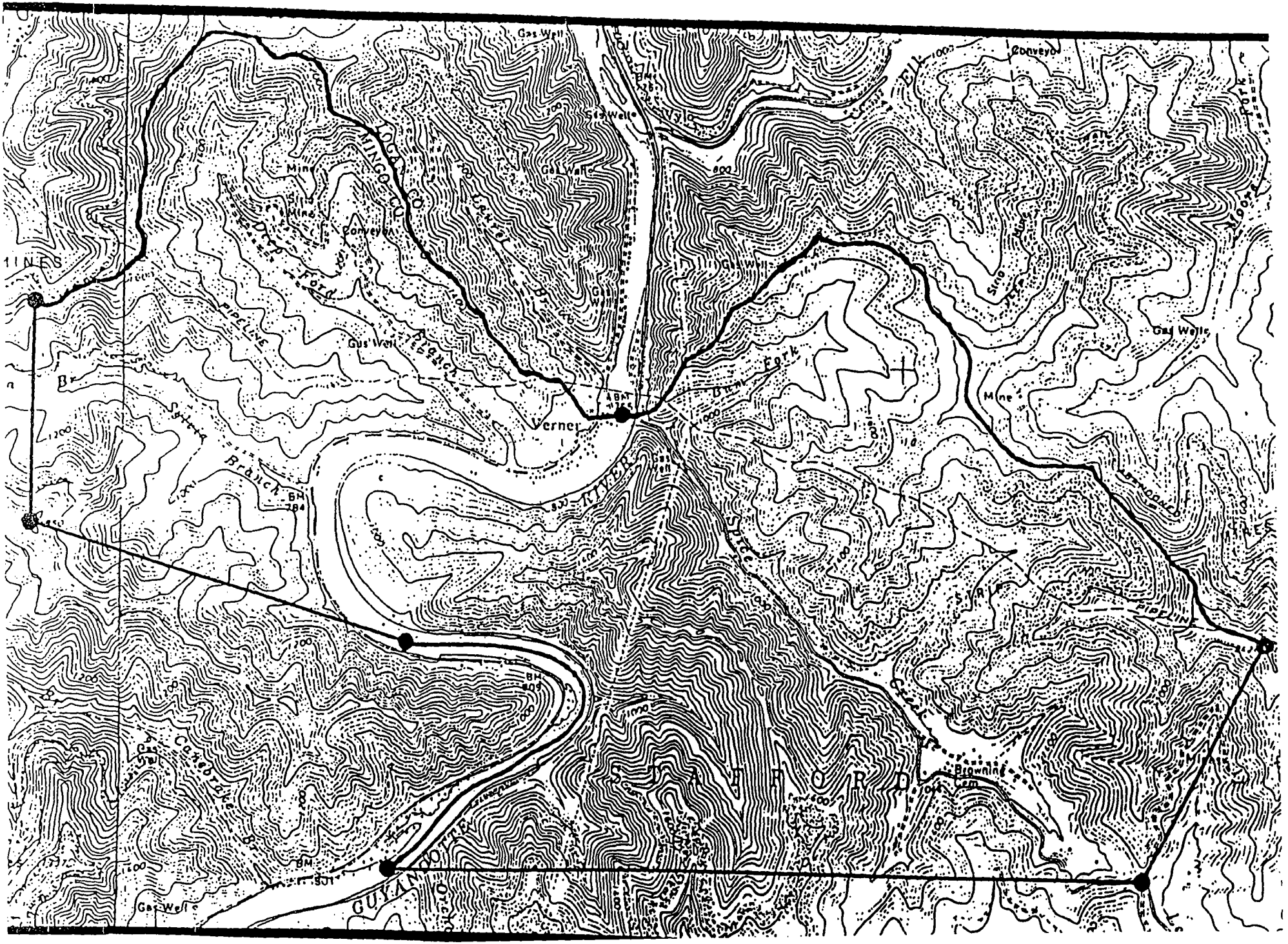
follows:

Beginning at a point in the Logan County/Mingo County community of Verner at the intersection of the midpoint of the Guyandotte River and the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 14,500 feet, more or less, to a point on top of Verner Mountain, said point having an elevation of 2,426 M.S.L., thence, following a straight line in a south, southwesterly direction approximately 4,000 feet, more or less, to a point on the ridgeline separating the Spice Creek and Leatherwood Creek drainages at its intersection with Mingo County Route 12, thence, following a straight line due west approximately 11,900 feet, more or less, to a point in the center of the Guyandotte River, thence, following the midpoint of the Guyandotte River downstream in a northerly direction approximately 7,200 feet, more or less, to a point in the center of the Guyandotte River located approximately 2,500 feet, more or less, upstream of the confluence of Sylvia Branch and the Guyandotte River, thence, following a straight line in a west, northwesterly direction approximately 5,940 feet, more or less, to a point atop a mountain peak having an elevation of 1,850 feet M.S.L., thence, following a straight line due north approximately 3,340 feet, more or less, to the point of intersection of said line with the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 15,000 feet, more or less, to the point of beginning.

The enlargement of Logan County Public Service District a. ordered herein shall be effective on the date of the Final Orde: approving the enlargement being issued by the Public Servic Commission of West Virginia.

ENTERED this 6th day of October, 1997.

Arthur E. Kirkendoll, President
LOGAN COUNTY COMMISSION



Gas Well
Conveyor
Vylo
Elk
Mine
Conveyor
Deep Ford
Branch
PIPELINE
Gas Well
Verner
Bum Fork
Mine
Gas Well
Branch
RIVER
Spice
Creek
Browning
Cem
Canebrake
GUYANDOTTE
Gas Well

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
4-2-98

Entered: March 13, 1998

CASE NO. 97-1344-PWD-PC

MINGO COUNTY COMMISSION
Petition to reduce the area of
the Mingo County Public Service
District.

CASE NO. 97-1370-PWD-PC

LOGAN COUNTY COMMISSION
Petition for approval of expansion into
the Verner and Spice Creek areas of
Mingo County.

RECOMMENDED DECISION

PROCEDURE

On October 3, 1997, the Logan County Public Service District filed a formal petition on behalf of the Mingo County Commission to reduce the territory of the Mingo County Public Service District, which was designated as Case No. 97-1344-PWD-PC.

On October 8, 1997, the Logan County Public Service District filed a formal petition on behalf of the Logan County Commission to enlarge the territory of the Logan County Public Service District to include the areas of Mingo County which were being withdrawn from the territory of Mingo County Public Service District in Case No. 97-1344-PWD-PC. This second petition was designated as Case No. 97-1370-PWD-PC. Both the Mingo and Logan County petitions included materials which detailed the process which the Mingo County and Logan County Commissions utilized to enact the respective boundary changes and both petitions requested that the Public Service Commission consolidate the two cases.

The territory to be withdrawn from the Mingo County Public Service District and added to the Logan County Public Service District encompasses the area of the pending Elk Creek, Verner and Spice Creek water project of the Logan County Public Service District. An application for a

certificate of convenience and necessity for this project was filed on November 21, 1997, and has been designated as Case No. 97-1326-PWD-CN on the Commission's docket. Pursuant to a Commission Order entered November 21, 1997, a Notice of Filing in that certificate case was published for public legal notice in both Logan and Mingo Counties on December 10, 1997, and as of the date of this Recommended Decision, no statements of protest or objection to the project or rates have been received by the Commission.

By a Commission Referral Order entered October 27, 1997, these cases were restyled to conform with past Commission practice in such matters, and were consolidated and referred to the Division of Administrative Law Judges for further proceedings with a decision due date of April 30, 1998.

On November 7, 1997, the Staff of the Public Service Commission filed its Final Joint Staff Memorandum in these consolidated cases. Staff stated that the Mingo and Logan County Commissions had substantially complied with West Virginia Code §16-13A-2 and Rule 6.0 of the Rules and Regulations for the Government of Public Service Districts, 150 WVCSR 17, §150-17-6.0, et seq. Staff stated further that the Petitioners needed to produce evidence concerning the public convenience and necessity, economic feasibility and adequacy of the proposed facilities before the expected recommendation of approval would be made.

By a Procedural Order entered January 20, 1998, these consolidated cases were scheduled for hearings to be held in Logan, Logan County, and Williamson, Mingo County, on March 4, 1998. This Order also required that the Petitioners publish for public legal notice a prepared Notice of Filing and Hearing in both Logan and Mingo Counties.

On February 6, 1998, the Petitioners filed copies of duly executed affidavits of publication demonstrating publication of the prepared Notice of Filing and Hearing on January 29, 1998, in The Logan Banner, and the Williamson Daily News, newspapers duly qualified by the Secretary of State, published and of general circulation in Logan and Mingo Counties, West Virginia, and all in compliance with the Order entered January 20, 1998.

The hearings convened as scheduled in both Logan and Williamson. The Logan County Public Service District was present in the person of its Managing Engineer Charles R. Roberts, Jr., and was represented by its attorney, James A. Walker. The Staff of the Public Service Commission was represented by Staff Attorney James V. Kelsh. No members of the public appeared at either hearing site to protest or object to these petitions. On March 9, 1998, an accurate transcript of these proceedings consisting of thirteen (13) pages of testimony was filed with the Commission.

EVIDENCE

At hearing, Charles R. "Rick" Roberts testified for the Petitioners. He is Managing Engineer of the Logan County Public Service District and was instrumental in developing the project underlying these boundary changes. Mr. Roberts stated, and produced documents to confirm, that the Logan County Public Service District is currently developing, and has sought a certificate of

convenience and necessity to construct, an appropriate public water system to serve the Mingo County service area sought to be annexed by the District in this proceeding. Actual construction bids on this project were to be opened on March 6, 1998. (Tr., pp. 5-6, 10-11).

In response, Commission Staff agreed that the Petitioners had demonstrated that an appropriate project was being developed to serve the area involved in these petitions and recommended approval of the petitions. Staff has examined all of the documents submitted by the Petitioners to show compliance with the procedural requirements of this boundary change and found them to be substantially complete and proper. (Tr., pp. 6-7, 12).

DISCUSSION

By a Final Joint Staff Memorandum filed February 11, 1998, in Case No. 97-1326-PWD-CN, the Staff of the Public Service Commission recommended approval of an application for a certificate of convenience and necessity filed by the Logan County Public Service District for the construction of a public water system to serve approximately 233 customers in the Logan County and Mingo County communities of Elk Creek, Verner and Spice Creek. Likewise, the State Office of Environmental Health Services has issued the project an Operations Permit No. 13,482. Clearly, this project is feasible and will serve the public convenience and necessity by bringing reliable, safe drinking water to an area currently without a public water supply.

It is also apparent that the County Commissions of Logan and Mingo Counties have taken all necessary procedural steps to enact and ratify this boundary change between the Mingo County Public Service District and the Logan County Public Service District. Additionally, there has been no protest or objection filed of record to any of these proceedings either before the County Commissions or the Public Service Commission. Consequently, the petitions filed in these consolidated cases will be granted and that portion of the service territory of the Mingo County Public Service District described in the petitions will be removed from that District and added to the service territory of the Logan County Public Service District.

FINDINGS OF FACT

1. On October 3, 1997, the Logan County Public Service District filed a formal petition on behalf of the Mingo County Commission to reduce the territory of the Mingo County Public Service District, which was designated as Case No. 97-1344-PWD-PC. (See, Petition filed October 3, 1997).

2. On October 8, 1997, the Logan County Public Service District filed a formal petition on behalf of the Logan County Commission to enlarge the territory of the Logan County Public Service District to include the areas of Mingo County which were being withdrawn from the territory of Mingo County Public Service District in Case No. 97-1344-PWD-PC. (See, Petition filed October 8, 1997).

3. The territory to be withdrawn from the Mingo County Public Service District and added to the Logan County Public Service District encompasses the area of the pending Elk Creek, Verner and Spice Creek water project of the Logan County Public Service District. An application for a certificate of convenience and necessity for this project was filed on November 21, 1997, and has been designated as Case No. 97-1326-PWD-CN on the Commission's docket. (See, Petitions filed October 3 and 8, 1997; Application filed November 21, 1997).

4. Pursuant to its review of the documents submitted with the petitions filed herein, Commission Staff has determined that the Mingo and Logan County Commissions have substantially complied with the procedural steps outlined in West Virginia Code §16-13A-2 and Rule 6.0 of the Commission's Rules and Regulations for the Government of Public Service Districts, 150 WVCSR 17, §150-17-6.0 et seq., for the transfer of the described service territory between the Public Service Districts. (See, Final Joint Staff Memorandum filed November 7, 1997; Tr., pp. 6-7, 12).

5. Pursuant to the requirements of West Virginia Code §16-13A-2 and a Notice of Filing and Hearing properly published for public legal notice in both Logan and Mingo Counties, West Virginia, a public hearing was convened in these consolidated cases on March 4, 1998, at which no members of the public appeared to protest or object to these petitions. (See, Affidavits of Publication filed February 6, 1998; Transcript generally).

CONCLUSION OF LAW

Under the facts and circumstances of these consolidated cases and the recommendation of Commission Staff, it is reasonable to grant the petitions filed herein, and approve the reduction of the Mingo County Public Service District and the enlargement of the Logan County Public Service District by the service territory described therein.

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Mingo County Commission dated October 1, 1997, and filed herein on October 3, 1997, to reduce the existing service territory of the Mingo County Public Service District, as detailed in said Order and supporting documents, is approved, and that the Order of the Logan County Commission dated October 6, 1997, and filed herein on October 8, 1997, to increase the service territory of the Logan County Public Service District to incorporate the service territory ceded by the Mingo County Public Service District herein, is approved, both to be effective on and after the date that this Recommended Decision becomes a final order of the Commission.

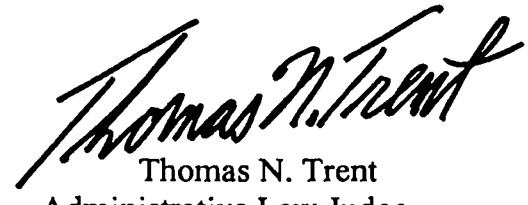
IT IS FURTHER ORDERED that these consolidated cases shall be removed from the Commission's docket of open cases.

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

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

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

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



Thomas N. Trent
Administrative Law Judge

TNT:dfs

IN THE COUNTY COMMISSION OF
LOGAN COUNTY, WEST VIRGINIA
IN RE: REAPPOINTMENT TO LOGAN COUNTY PSD

The County Commission of Logan County, West Virginia, being apprised that the term of Mr. Mike Stone on the Logan County Public Service District does expire this date, does, upon motion duly made, seconded and passed unanimously, reappoint Mr. Stone to a new term of five (5) years on the said Logan County PSD, said term to expire October, 2007.

ENTERED this the 10th day of October, 2001.

Arthur E. Kirkendoll, President

Danny R. Godby, Commissioner

Willie D. Akers, Jr., Commissioner

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, being cognizant that the terms of BEN LOWE, JR. and JAMES R. JEFFREY on the Logan County Public Service District Board do expire this date, upon motion duly made, seconded and passed, re-appoint Mr. Lowe and Mr. Jeffrey to new terms of six (6) years on the Logan County Public Service District, said terms to expire January, 2008.

ENTERED this the 7th day of January, 2002.

President

Commissioner

Commissioner

Post-It® Fax Note 7671	Date 1/8/02	# of pages ▶ 2
To Rick Roberts	From	
Co./Dept. LC PSD	Co. LCC	
Phone #	Phone #	
Fax # 752-0804	Fax #	

OFFICER'S OATH

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

I, Mike Stone, having been duly appointed to the office of Board Member of the Logan County 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.

Mike Stone

Subscribed and sworn to before the undersigned Clerk of the County Commission of said county, this 9th day of January, 2002.

Glen D. Adkins, Clerk

By. Barbara Robinson

OFFICER'S OATH

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

I, Ben F. Lowe, Jr., having been duly appointed to the office of Board Member of the Logan County 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.

Ben F. Lowe, Jr.

Subscribed and sworn to before the undersigned Clerk of the County Commission of said county, this 10th day of January, 2002.

Glen D. Adkins, Clerk

By: Barbara Blankenship

OFFICER'S OATH

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

I, James R. Jeffrey, having been duly appointed to the office of Board Member of the Logan County 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.

James R. Jeffrey

Subscribed and sworn to before the undersigned Clerk of the County Commission of said county, this 9th day of January, 2002.

Glen D. Adkins, Clerk

By: Barbara Belcher D.C.

RULES OF PROCEDURE

LOGAN COUNTY PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

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

Section 2. The principal office of the District will be located at White & Browning Building, Suite 507, 201 ½ Stratton Street, Logan, West Virginia.

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed "LOGAN COUNTY PUBLIC SERVICE DISTRICT WEST VIRGINIA", and in the center "CORPORATE SEAL" as follows:

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

ARTICLE II

PURPOSE

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

ARTICLE III

MEMBERSHIP

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

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

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

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

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

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

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

ARTICLE IV

MEETINGS OF THE BOARD

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

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

Section 3. Unless otherwise waived, notice to members of regular meetings shall be by letter or telephone. Unless otherwise waived, notice to members of each special meeting shall be by letter or telephone not less than 72 hours before the date fixed for such special meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted at such meeting, and no business other than that stated in the notice shall be transacted at such special meeting.

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

Rule No. 1. Notice of Regularly Scheduled Meetings. Immediately after adoption of these Rules of Procedure and in July of each year thereafter, the Board shall instruct the Secretary to, and the Secretary shall, post, and leave posted throughout the year to which it applies, at the regular meeting place of the Board and at the Logan County Courthouse, where notices customarily are posted, a notice setting forth the date, time and place of the Board's regularly scheduled meetings for the ensuing year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 72 hours before such regular meeting is to be held.

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

News Media	Address
The Logan Banner	P.O. Box 720 Logan, WV 25601
WVOW - AM/FM	P.O. Box 1776 Logan, WV 25601
Williamson Daily News	P.O. Box 1660 Williamson, WV 25661
The Lincoln Journal	P.O. Box 308 Hamlin, WV 25523
Independent Herald	P.O. Box 100 Pineville, WV 24874

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail. In July of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 72 hours before such regular meeting is to be held.

In the event of any modification to the date, time, place or agenda of a regularly scheduled meeting of the Board, notice of such modification shall immediately be given to the public and news media by posting at the places and distributing to the news media in the manner set forth above not less than 48 hours before such regular meeting is to be held. A copy of the notice of such modification shall be attached to and made a part of the minutes of the meeting for which such notice was given.

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Logan County

Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

As soon as practical after the posting of said notice, but not less than 72 hours prior to the date set for such special meeting, the Secretary shall distribute to each of the newspapers and other news media listed in Rule No. 1 hereof, a notice identical to that posted. Amendments made to such news media list, as provided for in said Rule No. 1, shall be incorporated by reference in this Rule No. 2. A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed in said Rule No. 1, or at such other address as the news medium has in writing requested be used, marked or stamped with first class postage and deposited in the United States mail.

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

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

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

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except

minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

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

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

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

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

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

ARTICLE V

OFFICERS

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

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

ARTICLE VI

DUTIES OF OFFICERS

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

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

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

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

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

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

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

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

Adopted this 9th day of May, 2002.

Chairperson and Member

Member

Member

CERTIFICATION

Certified a true copy of the Rules of Procedure duly adopted by the Board of Logan County Public Service District on May 9, 2002.

Dated this 10th day of May, 2002.

[SEAL]

Secretary

04/25/02
0001210/00323

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LOGAN COUNTY
PUBLIC SERVICE DISTRICT

P.O. Box 506
Logan, WV 25601
(304) 946-2641 (TDD)
Fax (304) 946-2645
E-mail: lcpsd@lcpsd.com

BOARD MEMBERS:
James R. Jeffrey, Chair
Ben F. Lowe, Jr.
Mike Stone
MANAGING ENGINEER:
Rick Roberts, P.E.

MINUTES

January 11, 2005

Respectfully submitted,

Mr. James R. Jeffrey, Chair

Mr. Ben Lowe, Jr., Treasurer

Mr. Mike Stone, Secretary

The Logan County Public Service District held its Special Monthly Board Meeting on Tuesday, January 11, 2005, at 6:30 p.m., at the Logan County Public Service District Business Office, 41 Armory Road, Monaville, West Virginia. Mr. James R. Jeffrey, Chair, called the meeting to order. See attached list of those in attendance.

ELECTION OF OFFICERS: Being the first District Board Meeting of the new year, the election of the officers was discussed. A motion by Mr. Lowe that the District Board Officers remain the same as last year, seconded by Mr. Stone. Motion passed 3-0. The District Officers for 2005 are:

Mr. James R. Jeffrey, Chair
Mr. Ben F. Lowe, Jr., Treasurer
Mr. Mike Stone, Secretary

APPROVAL OF MINUTES: The Board reviewed the Minutes of the December 14, 2004 Regular Board Meeting. A motion was made by Mr. Stone to approve the minutes as presented, seconded by Mr. Lowe. Motion passed 3-0.

CUSTOMER/PUBLIC PRESENTATIONS: Kit Meade informed the Board that he had a water leak and is requesting an adjustment on his water bill. Mr. Roberts stated the reason that he was not allowed an adjustment was because he had had a previous leak adjustment in August, 2004. Mr. Meade asked the Board to consider giving him an adjustment on his account because he had just spent several hundred dollars replacing his service line and house plumbing and felt he had fully taken care of the problem. After a discussion, a motion was made by Mr. Lowe to authorize Mr. Roberts to give Mr. Meade an adjustment on the account due to special circumstances, seconded by Mr. Stone. Motion passed 3-0.

Pee Wee and Debra Adkins, residents of Terrace Woods, Mitchell Heights inquired as to if the District had made any decision on the water meters to be placed at Terrace Woods. Mr. Roberts stated that the District had looked into this issue and found that they can install a meter at the road to serve the Adkins'. Due to the steep terrain, Mr. Roberts offered to extend the service line to the Adkins' yard if they were willing to agree that the service line from the meterwell to the house would be their responsibility after construction, even though the District had installed a portion of it. Mr. and Mrs. Adkins agreed that they would accept responsibility for the entire service line following construction.

ANNOUNCEMENTS: The next Regular Board Meeting will be held on Tuesday, January 25, 2005, at 6:30 p.m., at the Logan County Public Service District Office, 41 Armory Road, Monaville, West Virginia.

The next Special Board Meeting will be held on Tuesday, February 8, 2005, at 6:30 p.m. at the Logan County Public Service District Office, 41 Armory Road, Monaville, West Virginia.

PROJECT IMPLEMENTATION:

Huff Creek Water Project – Mr. Roberts presented Change Order #2 to Contract No. 2 for a quantity adjustment deduction in the amount of $23,018.45. A motion was made by Mr. Lowe to approve the Change Order, seconded by Mr. Stone. Motion passed 3-0.

Rocky/Caney Branch Water Project – Mr. Roberts reported that the Bid Opening was held on Wednesday, December 29, 2004 at 2:00 p.m. at the Logan County Public Service District Office, 41 Armory Road, Monaville, West Virginia. Mr. Roberts stated that there were two bids submitted on the line and three bids submitted on the tank. Mr. Roberts stated that Diversified Enterprise, Inc. was the low bidder on the line contract and Welding, Inc. was the lower bidder on the tank contract. Mr. Roberts stated that the problem is when the two bids are added together and excluding the deduct area, the project is still approximately $450,000 over budget. Mr. Roberts stated that he was told by the funding agency that they do not have funding available to supplement the funding package and that they recommended that the District reject all bids and rebid the project.

After a discussion, a motion was made by Mr. Lowe to reject all bids and authorize Randy Bolton of Stafford Consultants, Inc. to notify all bidders of the rejection, return all bid bonds and re-advertise the water project, seconded by Mr. Stone. Motion passed 3-0.

Charles and Betty Manley were in attendance. Ms. Manley inquired as to if the District rebids this project, will the District still consider serving them with this project. Mr. Jeffrey explained that the situation would be the same as it had been previously and that the District would not know anything until the bids are received.

Other – In regards to the Mifflin/Sharples Project, Dan Bickerton of West Virginia American Water informed the Board that they had submitted a project for a grant to be received by the Logan County Commission to be provided to Boone County for the Mifflin/Sharples Project. The approach is that Logan County Public Service District will turn over its Sharples Water System to the Boone County Public Service District. Boone County PSD will extend its Clothier system through Mifflin, connect to the Sharples system at Dobra and extend the combined system to Arch Coal's proposed facilities at Seng Camp. Mr. Bickerton stated that as of today the Boone County Public Service District has indicated that they are in agreement to proceed with the project. Mr. Bickerton stated that Arch Coal is interested in extending water to their new facilities near Sharples of Seng Camp. Frank Robinette and John McDaniel, representatives for Arch Coal were present at the meeting. After a discussion, a motion was made by Mr. Stone to authorize Mr. Jeffrey to sign an application if Boone County Public Service District is not in agreement to proceed, seconded by Mr. Lowe. Motion passed 3-0.

Phase I Wastewater Project – Jim Boggs, Region II PDC, presented invoices from January, 2004 through September, 2004 in the amount of $6,359.60 for the Board's approval. A motion to approve was made by Mr. Lowe, seconded by Mr. Stone. Motion passed 3-0.

Mr. Roberts presented Pay Estimate #14-Final for Contract D(II) and a IJDC Drawdown to the Board for approval as follows:

Diversified Enterprise, Inc.	$ 52,392.73
James A. Walker	697.50
Logan County PSD	10,675.00
Region II PDC	263.05
TOTAL	$ 64,028.28

Mr. Stone made a motion to approve the Pay Estimate and Drawdown Request, seconded by Mr. Lowe. Motion passed 3-0.

Mr. Roberts reported that the Department of Highways began work on the drain at the West Logan Missionary Baptist Church.

Atenville Water Project – Jim Boggs, Region II PDC, presented invoices from September, 2003 through September, 2004 in the amount of $5,340.52 for the Board's approval. A motion to approve was made by Mr. Stone, seconded by Mr. Lowe. Motion passed 3-0.

Mr. Roberts reported that there is no status change on the Zion issue.

EXECUTIVE SESSION: A motion was made by Mr. Lowe to enter into executive session pursuit to Chapter 6, Article 9A, Section 4(b)(2)(A) of the Code of West Virginia, 1931, for the purpose of discussing matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee, seconded by Mr. Stone. Motion passed 3-0.

A motion was made by Mr. Lowe to arise from Executive Session with no action taken, seconded by Mr. Stone. Motion passed 3-0.

A motion was made by Mr. Lowe to ratify and uphold the sanctions that were imposed to terminate the employment of Cecil Brock, seconded by Mr. Stone. Motion passed 3-0.

A motion was made by Mr. Lowe to enter into executive session pursuit to Chapter 6, Article 9A, Section 4(b)(2)(A) of the Code of West Virginia, 1931, for the purpose of discussing matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee, seconded by Mr. Stone. Motion passed 3-0.

A motion was made by Mr. Stone to arise from Executive Session with no action taken, seconded by Mr. Lowe. Motion passed 3-0.

A motion was made by Mr. Stone to ratify and uphold the sanctions that were imposed to terminate the employment of Chad Mangus based upon the statements and evidence presented, seconded by Mr. Lowe. Motion passed 3-0.

Other Projects – In regards to the new billing and accounting system, Mr. Baisden reported that on January 24, 2005 the final conversion and implementation will be effective.

Mr. Roberts reported that the District has not been able to work on the Mill Branch Project and Snap Branch Project.

SYSTEM OPERATIONS: Mr. Roberts presented a Memorandum approving the payment of invoices and the monthly invoices for the Board's review, approval and signature. A motion was made by Mr. Lowe to approve the invoices as presented, seconded by Mr. Stone. Motion passed 3-0.

Mr. Roberts presented the Financial Report, Delinquent Report, the Water Accountability Summary, the Monthly Vehicle Use Summary and the Purchased Water Report to the Board for review.

Wyoming County Water Systems – Mr. Roberts stated that the next Eastern Wyoming Public Service District board meeting is scheduled for Tuesday, February 1, 2005.

In regards to the project on the Gulf which includes the water treatment plant, Mr. Roberts reported that the Public Service Commission Staff has recommended approval of the certificate case. Mr. Roberts stated that the construction on the EDA Phase I Mullens/Wyco Water Project is behind schedule but is moving along. Mr. Roberts stated that all operations are running fairly well.

Other – A discussion was held on the City of Logan's request for the rate that the District would charge the City for a sewer treatment and how much of their flow that the District could accept. Mr. Roberts stated that Mike Griffith calculated a treatment rate.

Mr. Roberts presented a Revenue Account Resolution to the Board for approval and signature. Mr. Lowe made a motion to approve the contract, seconded by Mr. Stone. Motion passed 3-0.

ADJOURNMENT: Being no other business, a motion made by Mr. Stone and seconded by Mr. Lowe, the meeting was adjourned.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

January 11, 2005 Board Meeting

Attendance List

Name	Representing
Debra Hallett	LCPSD
Rick Roberts	LCPSD
Harlen & Betty Hanley	
Jim E Bays	RZPDC
Dan Bulanda	WVAW
Cecil Brock	PSD
Kit Meade	
Wilbur Baisden	LCPSD
Jim Walker	attorney
Don Morgan	LCPSD
Debra Adkins	
Chad Mangus	
[illegible]	L C PSD
Ben [illegible]	L C P S D
Mike Stone	LCPSD
Frank Robinette	Hech Coal
John McDaniel	Hech Coal

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 16th day of June, 2004.

CASE NO. 04-0575-PWD-CN

LOGAN COUNTY PUBLIC SERVICE DISTRICT
Application for a certificate of convenience and necessity to construct a water distribution system to serve the Rocky Branch areas, Logan County.

COMMISSION ORDER

On April 16, 2003,[1] Logan County Public Service District (District) filed an application for a certificate of convenience and necessity for the construction of a water system extension project which will serve approximately 167 new residential and small commercial customers in the Rocky Branch, Caney Branch and surrounding areas of Logan County. The application proposed to charge the new customers the same rates it charges current customers pursuant to its tariff on file with the Commission.[2] Included with the District's application were a financial exhibit pursuant to Rule 42 of the Commission's *Rules for the Construction and Filing of Tariffs (Tariff Rules)*; a preliminary project report including estimated costs of construction, the proposed financing documentation; the construction schedule; the project plans and specifications;

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[1]The District had previously, on March 8, 2004, given notice of its intent to file this application and published a Notice of Pre-Filing which described the project. The Notice of Pre-Filing was published on March 10, and March 17, 2004, in *The Lincoln Journal* and *The Weekly News Sentinel*, of Lincoln County, the *Logan Banner* of Logan County, the *Pineville Independent Herald*, of Wyoming County, and in the *Coal Valley News*, of Boone County. The Notice of Pre-Filing was also published on March 10, and March 19, 2004 in the *Williamson Daily News*, of Mingo County,

[2]The District's current rates are interim rates approved February 11, 2004, in Case No. 03-2015-PWD-30B. The Administrative Law Judge's decision due date in the 30B case is due on or before October 25, 2004.

7A

summary of the status of permits for the project; and a copy of a permit for the project issued by the West Virginia Office of Environmental Health Services.

By Notice of Filing issued April 16, 2004, the District was ordered to give notice of the filing of its application and rates to be charged new customers by publishing a Class I legal advertisement in a newspaper published and of general circulation in Logan County. The notice provided a 30-day protest or intervention period, and stated that in the absence of substantial protest or intervention, the Commission may grant the application without hearing.

On May 12, 2004, the District filed affidavits of publication evidencing Class I publication on April 28, 2004, of the required Notice of Filing in *The Lincoln Journal* and *The Weekly News Sentinel*, of Lincoln County, the *Logan Banner* of Logan County, the *Pineville Independent Herald*, of Wyoming County, in the *Williamson Daily News*, of Mingo County, and in the *Coal Valley News*, of Boone County.

On May 24, 2004, Commission Staff (Staff) filed an Initial and Final Joint Staff Memorandum in this case. On May 26, 2004, Staff filed a Further Initial and Final Joint Staff Memorandum making certain corrections to Staff's May 24th filing. Staff explained that in the recent past several customers located in the area to be served by this project have filed formal complaints seeking public utility water service. Staff noted that the District projects growth in the areas to be served due to proximity to U.S. Route 119. The District will construct the extension from its Northern Regional Water Treatment Plant and increase that plant's operation time by 7.2 hours per day. The District projects that the costs of the project will total $1,895,000, with $1,570,000 of that total being construction costs, and $69,100 for engineering design. Project financing is proposed as follows:

Appalachian Regional Commission Grant	$760,000
West Virginia Infrastructure and Jobs Development Grant	$335,000
West Virginia Infrastructure and Jobs Development Loan, 40 year term at 0% interest	$800,000
TOTAL	$1,895,000

The Commission's Engineering Division noted that the project will include

construction of approximately 38,000 feet of 8" or smaller water lines, one 70-gallons/minute water booster station, one 115,000-gallon nominal capacity water storage tank and various valves, hydrants and other appurtenances. Staff stated that the Northern Regional Water Treatment Plan is relatively new and has adequate capacity to handle the project areas.

Staff found the District's projected increase to its operation and maintenance expenses that will result from this project to be reasonable and recommended Commission adoption of the O&M budget as detailed in the District's *Tariff Rule* 42 exhibit. Staff agreed with the District's assertions that there is a public interest need for the project and that no other viable alternatives for provision of water exist. Engineering Staff stated that the District's plans and specifications are in compliance with the Commission's Rules and Regulations. Staff noted that the per-customer cost of construction is approximately $9,400 which is somewhat high but within the acceptable range for rural extension projects. Staff found the customer density of 23 customers per mile to be acceptable. Staff opined that because 58% of the proposed funding will be grant funding, the project is quite feasible.

Staff noted that the project has not yet been bid and that actual costs may vary from those projected. In the event bids are higher than the proposed funding, the applicant should be required to petition to reopen this proceeding for approval of additional funding.

Staff recommended that the Commission grant the District a certificate of convenience and necessity as requested, including approval of the proposed funding, contingent upon (1) receipt of all necessary federal, state and local permits and approvals for the proposed construction; (2) the District's filing of a certified bid tabulation within 30 days of the bid opening date for all construction contracts associated with the project; and (3) the District's filing of a copy of a certificate of substantial completion for each contract associated with the project within 30 days of such completion.

DISCUSSION

Upon review of the foregoing, the Commission finds that the above-described Rocky Branch, Caney Branch project will serve the public convenience and necessity by providing water service to approximately 167 currently unserved customers within Logan County. The Commission further finds that the increased operation and maintenance expenses attributable to the project as set forth in the District's *Tariff Rule* 42 exhibit are reasonable and should be approved. Furthermore, the proposed financing for the Project likewise is reasonable and should be approved.

Issuance of this certificate of convenience and necessity shall be made contingent upon: (1) receipt of all necessary federal, state and local permits and approvals for the proposed construction; (2) the District's filing of a certified bid tabulation within 30 days of the bid opening date for all construction contracts associated with the project; and (3) the District's filing of a copy of a certificate of substantial completion for each contract associated with the project within 30 days of such completion.

The District shall not begin construction of its project until all permits have been issued.

Based on Staff's recommendations, the Commission's review, as well as the fact that notice of the proposed project has been published in Logan, as well as surrounding counties, and no protests have been received, the Commission will grant the Logan County Public Service District a certificate of convenience and necessity, pursuant to *W.Va. Code* § 24-2-11.

FINDINGS OF FACT

1. On April 16, 2003, Logan County Public Service District (District) filed an application for a certificate of convenience and necessity for the construction of a water system extension project which will serve approximately 167 new residential and small commercial customers in the Rocky Branch, Caney Branch and surrounding areas of Logan County.

2. The application proposed to charge the new customers the same rates the District charges current customers pursuant to the District's tariff on file with the Commission (*See* footnote 2 supra).

3. Included with the District's application were a financial exhibit pursuant to *Tariff Rule* 42; a preliminary project report including estimated costs of construction; the proposed financing documentation; the construction schedule; the project plans and specifications; a summary of the status of permits for the projects; and a copy of a permit for the project issued by the West Virginia Office of Environmental Health Services.

4. The District published both Pre-Filing Notices and Notices of Filing in Logan and surrounding counties. The Notice of Filing provided a 30-day protest or intervention period, and stated that in the absence of substantial protest or intervention, the Commission may grant the application without hearing. No protests to or interventions in this proceeding have been filed.

5. If approved, the District will construct the extension from its Northern Regional Water Treatment Plant and increase that plant's operation time by 7.2 hours per day.

6. The District projects that the costs of the project will total $1,895,000, with $1,570,000 of that total being construction costs, and $69,100 for engineering design.

7. Project financing is proposed as follows:

Appalachian Regional Commission Grant	$760,000
West Virginia Infrastructure and Jobs Development Grant	$335,000
West Virginia Infrastructure and Jobs Development Loan, 40 year term at 0% interest	$800,000
TOTAL	$1,895,000

8. The project will include construction of approximately 38,000 feet of 8" or smaller water lines, one 70-gallons/minute water booster station, one 115,000-gallon nominal capacity water storage tank and various valves, hydrants and other appurtenances. *See* May 24, 2004, Staff Memorandum.

9. Staff found the District's projected increase to its operation and maintenance expenses that will result from this project to be reasonable and recommended Commission adoption of the O&M budget as detailed in the District's *Tariff Rule* 42 exhibit. *Id.*

10. Staff agreed with the District's assertions that there is a public interest need for the project and that no other viable alternatives for provision of water exist. *Id.*

11. Engineering Staff stated that the District's plans and specifications are in compliance with the Commission's Rules and Regulations. *Id.*

12. Staff noted that the per-customer cost of construction is approximately $9,400 which is somewhat high but within the acceptable range for rural extension projects. Staff found the customer density of 23 customers per mile to be acceptable. Staff opined that because 58% of the proposed funding will be grant funding, the project is quite feasible. *Id.*

13. Staff recommended that the Commission grant the District a certificate of convenience and necessity as requested, including approval of the proposed funding, with certain contingencies.

CONCLUSIONS OF LAW

1. The Rocky Branch, Caney Branch project will serve the public convenience and necessity by providing water service to approximately 167 currently unserved customers within Logan County.

2. The increased operation and maintenance expenses attributable to the project as set forth in the District's *Tariff Rule* 42 exhibit are reasonable and should be approved.

3. The proposed financing for the Project is reasonable and should be approved, as follows:

Appalachian Regional Commission Grant	$760,000
West Virginia Infrastructure and Jobs Development Grant	$335,000
West Virginia Infrastructure and Jobs Development Loan, 40 year term at 0% interest	$800,000
TOTAL	$1,895,000

4. Issuance of this certificate of convenience and necessity should be contingent upon: (1) receipt of all necessary federal, state and local permits and approvals for the proposed construction; (2) the District's filing of a certified bid tabulation within 30 days of the bid opening date for all construction contracts associated with the project; and (3) the District's filing of a copy of a certificate of substantial completion for each contract associated with the project within 30 days of such completion.

5. The District shall not begin construction of its project until all permits have been issued.

6. Based on Staff's recommendations, the Commission's review, as well as the fact that notice of the proposed project has been published in Logan and surrounding counties, and no protests have been received, the Commission will grant the Logan

County Public Service District a certificate of convenience and necessity, pursuant to *W.Va. Code* § 24-2-11.

ORDER

IT IS THEREFORE ORDERED that the Logan County Public Service District is hereby issued a certificate of convenience and necessity to construct approximately 38,000 feet of 8" or smaller water lines, one 70-gallons/minute water booster station, one 115,000-gallon nominal capacity water storage tank and various valves, hydrants and other appurtenances, to serve 167 new customers in the Rocky Branch, Caney Branch and surrounding areas of Logan County.

IT IS FURTHER ORDERED that issuance of this certificate of convenience and necessity is contingent upon: (1) receipt of all necessary federal, state and local permits and approvals for the proposed construction; (2) the District's filing of a certified bid tabulation within 30 days of the bid opening date for all construction contracts associated with the project; and (3) the District's filing of a copy of a certificate of substantial completion for each contract associated with the project within 30 days of such completion.

IT IS FURTHER ORDERED that the District's proposed increases to operation and maintenance expenses attributable to the project are hereby approved.

IT IS FURTHER ORDERED that funding for this Project is hereby approved as follows:

Appalachian Regional Commission Grant	$760,000
West Virginia Infrastructure and Jobs Development Grant	$335,000
West Virginia Infrastructure and Jobs Development Loan, 40 year term at 0% interest	$800,000
TOTAL	$1,895,000

IT IS FURTHER ORDERED that the District's revised tariff sheets are hereby approved for use in the new Rocky Branch, Caney Branch and surrounding areas, upon completion of this project.

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

IT IS FURTHER ORDERED that upon entry of this order, this case 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 on all parties of record by First Class United States Mail, and upon Commission Staff by hand delivery.

MML/ljm
040575c.wpd

A True Copy, Teste:

Sandra Squire
Executive Secretary

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 5th day of April, 2005.

CASE NO. 04-0575-PWD-CN (Reopened)

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
a public utility, Logan County.
Petition to reopen.

COMMISSION ORDER

By Commission Order entered on June 16, 2004, the Logan County Public Service District (District) was issued a certificate of convenience and necessity to construct approximately 38,000 feet of 8" or smaller water lines, one 70-gallons/minute water booster station, one 115,000-gallon nominal capacity water storage tank and various valves, hydrants and other appurtenances, to serve 167 new customers in Logan County. Financing of $1,895,000 for the project was also approved as follows: a $760,000 Appalachian Regional Commission Grant; a $335,000 West Virginia Infrastructure and Jobs Development (WVIJD) Grant; and an $800,000 WVIJD Loan (40 year term at 0% interest).

On March 4, 2005, the District filed a petition to reopen this case for expedited approval of changes in the project scope, cost and financing, specifically including the following:

> [] On February 10, 2005, the District opened bids on the project, which were $361,436 greater than had been anticipated. The District was able to ascertain that certain 'project costs' were less than anticipated; however, the revised total project cost is $248,245 over budget. Accordingly, the grant from the West Virginia Infrastructure Fund has been increased from $335,000 to $460,000 and the West Virginia Infrastructure Fund loan has been increased from $800,000 to $923,245. The Appalachian Regional Commission grant of $760,000 remains unchanged.

7B

This funding change will have no impact on the rates and charges approved for this project. The revised total project cost is $2,143,245.

[] The project as bid included a deductive alternate for a US 119 crossing to serve three (3) homes. The low bidder's price for this deduct was $60,994 or approximately $20,331 per customer. The construction cost per customer of the original project was approximately $9,400. The District proposes to delete this high cost area from the project.

In support of its request, the District attached revised Project Cost and Funding Summaries, documentation of commitment of additional funding, revised cash flow analysis and bid tabulations.

Commission Staff (Staff) filed a Final Joint Staff Memorandum on March 18, 2005. Technical Staff discussed the revised WVIJD Binding Commitment Letter and noted that the grant was increased by $125,000 and the loan increased by $123,245. The terms of the loan remain at 0% with a 40-year term. Technical Staff attached a Revised Cash Flow Analysis and noted the only revisions are the increases in the annual debt service principal and interest from $23,000 to $26,081 and corresponding increase in the 10% debt reserve. According to Technical Staff, the District still has a $183,258 cash surplus and a 134.38% debt coverage. Thus, no further adjustment of rates and charges was requested or recommended.

In addressing the District's proposal to delete three customers whose location makes serving them expensive, Technical Staff stated:

1. These three customers were part of the original project.

2. It was noted in the original contract documents (plans and specifications) that these three customers may have to be deleted if project costs exceeded estimates. (They were designated as a "Deductive Alternate".)

3. The elimination of these three customers does not impact the project[']s viability nor does it significantly impact the debt load of the project.

4. It is Staff's opinion that the elimination of these particular customers is based on a reasonable analysis of the project costs and

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the cost-per-customer ratios of these customers versus the overall cost-per-customer ratio.

5. Based on our experience with similar projects, Staff anticipates that surplus funds may be available as the project comes to fruition. These surplus funds should be used to extend service to these customers.
6. Should surplus funds not be available, then the future cost to serve these three, remotely located customers, would increase significantly. Thus, the District should make every effort to serve these customers in the current project.

Staff opined that the revised changes to the project are reasonable and should be approved, also stating that any surplus funds which may become available should be used to extend service to the three deleted customers. Staff also recommended that the revised financing be approved.

Staff filed a Further Final Joint Staff Memorandum on March 22, 2005, attaching its revised cash flow analysis which had been inadvertently omitted from the prior memorandum.

DISCUSSION

The Commission finds that the positions and reasoning of Staff and the District are persuasive and should be adopted. Thus, the Commission will approve the District's revised change in scope of the project, with a revised total project cost of $2,143,245. The revised project financing will also be approved, which consists of increasing the WVIJDC grant from $335,000 to $460,000 and increasing the WVIJDC loan from $800,000 to $923,245. Finally, the Commission concurs with Staff and directs that any surplus funds which may become available should be used to extend service to the three deleted customers.

FINDINGS OF FACT

1. On March 4, 2005, the District filed a petition to reopen for expedited approval of changes in the project scope, cost and financing.

2. As a result of a bid overrun, the revised total project cost is $2,143,245.

3. The District seeks approval of an increase in the WVIJD grant from $335,000 to $460,000 and an increase in the WVIJD loan from $800,000 to $923,245.

4. According to the District, the revised funding will have no impact on the rates and charges approved for this project.

5. The District seeks approval to delete three customers from the project, which were included as a deductive alternate, as the cost would be excessive. The low bidder's price for this deduct was $60,994 or approximately $20,331 per customer. The construction cost per customer of the original project was approximately $9,400.

6. Staff filed a Final Joint Staff Memorandum on March 18, 2005, recommending approval of the revised changes and revised financing. Staff also stated that any surplus funds which may become available should be used to extend service to the three deleted customers.

7. Based upon its analysis, no further adjustment of rates and charges was requested or recommended by Staff.

8. In addressing the District's proposal to delete three customers whose location makes serving them expensive, Technical Staff explained: the three customers were part of the original project; it was noted in the original contract documents that the three customers may have to be deleted if project costs exceeded estimates; the elimination of the three customers does not impact the project's viability nor does it significantly impact the debt load of the project; the elimination of the three customers is based on a reasonable analysis of the project costs and the cost-per-customer ratio of these customers versus the overall cost-per-customer ratio; and any surplus funds which may become available as the project comes to fruition should be used to extend service to the three customers.

9. Staff filed a Further Final Joint Staff Memorandum on March 22, 2005, attaching its revised cash flow analysis which had been inadvertently omitted from the prior memorandum.

CONCLUSIONS OF LAW

1. The District's revised scope of the project and revised financing, consisting of increasing the WVIJDC grant from $335,000 to $460,000 and increasing the WVIJDC loan from $800,000 to $923,245, should be approved.

2. Any surplus funds which may become available to the District should be used to extend service to the three deleted customers.

ORDER

IT IS, THEREFORE, ORDERED that the Logan County Public Service District's petition to reopen is hereby granted.

IT IS FURTHER ORDERED that the Logan County Public Service District's change in scope, with a revised total project cost of $2,143,245, is hereby approved.

IT IS FURTHER ORDERED that Logan County Public Service District' revised project financing, which consists of increasing the WVIJDC grant from $335,000 to $460,000 and increasing the WVIJDC loan from $800,000 to $923,245, is hereby approved.

IT IS FURTHER ORDERED that any surplus funds which may become available to the District should be used to extend service to the three deleted customers.

IT IS FURTHER ORDERED that in the event of any change to the funding, terms of financing, plans, or scope of the approved project, the District shall petition the Commission to reopen this proceeding for approval of the same.

IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's active docket of cases.

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

A True Copy, Teste:

Sandra Squire

Sandra Squire
Executive Secretary

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PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

Issued: December 8, 2004

FINAL

12-28-04

CASE NO. 03-2015-PWD-30B

LOGAN COUNTY PUBLIC SERVICE DISTRICT.
Rule 30B petition to increase water rates and charges on its Stollings, McConnell, Rum Creek and Mud Fork water system.

RECOMMENDED DECISION

PROCEDURE

On December 3, 2003, Logan County Public Service District (District) filed an application under Rule 30B of the Commission's *Rules and Regulations for the Construction and Filing of Tariffs* (*Tariff Rules*) to increase its water rates and charges to cover the increased purchased water costs incurred by purchasing water from the City of Logan (Logan). The proposed rate increase will amount to $0.098 per 1,000 gallons of water used.

On December 23, 2003, the District submitted publication affidavits indicating that it had published a Public Notice of Change in Rates upon Application (*Tariff Rule* 30B) in newspapers published and generally circulated in each of the Counties of Boone, Logan, Mingo, Wyoming and Lincoln, which is where the District provides public water service.

On January 6, 2004, Staff Attorney Meyishi Blair, Esquire, filed the Initial Joint Staff Memorandum, indicating that, once Commission Staff had investigated this matter it would submit a substantive recommendation. Staff opined that the District had achieved proper publication for this proceeding.

On February 11, 2004, the Commission entered the Commission Order approving the proposed rate increase of $0.098 per 1,000 gallons of water used, on an interim basis, subject to refund.

Four letters of protest were filed with the Commission. The District serves approximately 8,000 customers.

TC

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On March 19, 2004, Staff Attorney Blair submitted the Final Joint Staff Memorandum, attaching the March 16, 2004 Utilities Division Final Staff Memorandum prepared by Utilities Analyst J. W. Flenner. Together, these Memoranda comprised Commission Staff's final recommendation. Staff recommended increasing the District's rates by $0.04 per 1,000 gallons and refunding the difference between the Staff-recommended rate and the interim rate as a credit to the affected customers' bills.

On March 25, 2004, the District objected to the Staff-recommended rate increase and revised its request to increase its rates by $0.107 per 1,000 gallons.

On March 31, 2004, the Commission entered the Commission Referral Order, referring this case to the ALJ Division for decision on or before October 25, 2004.

Responding to all of the above, on May 28, 2004, the Administrative Law Judge (ALJ) issued a Procedural Order establishing a procedural schedule to process and resolve this matter, including a Thursday, June 17, 2004 hearing date.

On June 15, 2004, responding to a motion from Commission Staff, the Commission entered a Commission Order Extending Administrative Law Judges Decision Due Date, thereby granting the ALJ until December 9, 2004, to render his written recommended decision in this matter. Commission Staff also sought a continuance of the June 17, 2004 hearing date. Responding thereto, on June 16, 2004, the ALJ issued an Order Canceling Thursday, June 17, 2004 Hearing.

Upon information received from members of the public and from newspapers, it appears that several members of the public appeared at the hearing site on June 17, 2004, to protest the proposed rate increase, even though no public notice of the hearing had been required or published.

Responding to all of the above, on July 6, 2004, the ALJ issued the Order Adopting New Procedural Schedule and Requiring Publication by Executive Secretary, including a Thursday, August 26, 2004 hearing.

On August 26, 2004, the ALJ convened the hearing as scheduled. The District appeared at the hearing by Mark E. Kauffelt, Esquire; Commission Staff appeared by counsel, Staff Attorney Chris Howard, Esquire; and approximately 20 of the District's customers appeared in person, *pro se*, to protest the rate increase and present public comment.

The District submitted two exhibits and Commission Staff presented one exhibit, each presented the testimony of one witness. The parties availed themselves of the opportunity to submit proposed findings of fact, conclusions of law, orders, briefs and replies, all of which the ALJ considered, together with all of the testimony and other evidence, prior to rendering this Recommended Decision.

EVIDENCE

The first person who made a public comment was Dale Harwood. Mr. Harwood emphasized that the District's rates already are higher than other water utilities' rates. He believes that the proposed 10.7% rate increase is unreasonable. (Tr., pp. 8-10). He believes that the Commission should adopt one method to calculate a pass-through of increased purchased water costs, not have two different methods. He also believes that the District is trying to recover some of its $35,000 in advertising costs in this case. (Tr., pp. 81-82).

Next, Moss Burgess noted that the District already had recently received several other rate increases. He believes that the District is wasting money by advertising on the radio and in other media. He believes that Commission hearings should be conducted during non-business hours so that more people could attend. He believes that this rate case is just a rubber-stamp decision that already has been made. (Tr., pp., 13-15).

Another customer, Willie Viars, complained about the hearing that was canceled at the last minute without calling the *Logan Banner* to let the public know that it was canceled. He opined that the District was not created to make a profit. Mr. Viars did not attend the hearing to bad-mouth the District's engineer, Mr. Roberts, i.e., he came to the hearing to try to keep the District's rates as low as possible. He believes that, since many of the District's new water lines were funded by grants, instead of loans, the District does not need more revenue. (Tr., pp. 16-18).

The next person who testified was Willie Akers, a customer of the District and a member of the Logan County Commission. Mr. Akers indicated that he was speaking on behalf of the Logan County Commission, which is working to get water to everyone in Logan County. However, he believes that the rates should be kept as low as possible. He believes that many customers will have a hard time paying their water bills if this rate increase is approved. (Tr., pp. 19-20).

Phil Williamson, a District customer, made a public statement. He believes that the Public Service Commission caused the proposed rate increase by forcing the City of Logan to increase its rates. He asked that the District quit asking for rate increases. (Tr., pp. 21-22). Mr. Williamson questioned how much more the District intended to charge due to Logan's increased resale rate. He also questioned why the cost would be spread out over the entire system when only some of the District's customers receive the purchased water. He does not believe that he is receiving anything for the increase if he does not receive water that is purchased from Logan. (Tr., pp. 103-109).

The next customer who spoke was Frank Preece. Mr. Preece believes that, since the District now has a treatment plant, it should not have to pay as much for the water it purchases from Logan, i.e., it will be purchasing less water. He opined that the rate increase process is a vicious cycle in which the customers are caught in the middle. He wishes that he could request a wage increase just because he needed it. He is stuck with his income. He believes that the District should quit building new lines until it gets its debts paid. (Tr., pp. 22-24). Mr. Preece questioned why the District would need a rate increase to cover the increased purchased water costs when it is now producing its own

water, i.e., he assumes that the reason that the District is producing its own water is because it can do so cheaper than it can buy it from Logan and he believes that the savings from producing water should offset the increased cost per 1,000 gallons of purchased water. (Tr., pp. 109-112).

Another customer, Ronald Vargo, opined that the District wants to recover too much. He is not able to petition to have his Social Security check increased just because the price of food goes up. He believes that the District could be operated more efficiently. Mr. Vargo pays $120 per month for water and sewer service. He wanted to know how much customers of other water utilities in West Virginia have to pay. (Tr., pp. 83-87).

Alvin Farmer complained that the District is not consistent with when it reads meters, i.e., some months he will receive a bill for 35 or 40 days' service and some months he will receive a bill for 20-some days' service. This makes it difficult for him to budget an amount for his water bill. (Tr., pp. 87-88).

Donald Beha, another customer, complained that the Commission increased Logan's resale rate by more than Logan requested. Logan wanted its resale rate to increase from $0.67 per 1,000 gallons to $0.97 per 1,000 gallons, but the Commission approved a rate of $1.37 per 1,000 gallons. He believes that this is unfair to the District to have to pay more than what Logan requested. He also complained about the radio advertising that the District engages in, "Also, we don't need somebody on the radio at the expense of $30,000 telling us how good their water is. We know how good it is. We drink the water, we wash the clothes, the cars and all this stuff, we don't need $30,000 expense in there for that." Eliminating the advertising would eliminate the need for the proposed rate increase. (Tr., pp. 88-91).

Customer Michael Stepp questioned the factors that should be considered when calculating the proper amount to pass through to the customers. He complained that, although the District had replaced and upgraded many of its lines in the past couple of years, the line serving him leaks all of the time. The leak is so bad that it washes away his fence and driveway. He believes that, if the District eliminated the leaks, it could operate more efficiently and with lower rates. The District has to pay for the water that leaks as well as the water that its customers use. (Tr., pp. 91-95).

The final customer to make a statement was Bill Waybright. He questioned the propriety of the Logan County Public Service District providing water service to other counties. He believes that it could cut costs by just serving people who lived in Logan County. He wanted to know whether, as the District produces more water and purchases less, will it continue to have to increase its rates, since Logan will be selling less. He believes that utility rates should be more forward-minded and plan more for the future, instead of basing rates on the past. (Tr., pp. 96-102). Mr. Waybright opined that the District should not be allowed to make a profit. (Tr., pp. 117-120).

The only witness who testified on behalf of the District was William Baisden, its assistant manager. Mr. Baisden is a certified public accountant (CPA) with a bachelor's degree from the water resource program at West Virginia State University. Mr. Baisden prepared the filing for this case.

The nature of a Rule 30B filing is to pass through to the District's customers a rate increase earlier approved for the City of Logan, from which the District purchases water for resell. He identified the District's *Tariff Rule* 30B filing, which the ALJ received as District Exhibit No. 1. (Tr., pp. 25-27; District Exhibit No. 1).

Mr. Baisden explained the methodology he used to calculate the District's proposed *Tariff Rule* 30B increase. Using a test year ending June 30, 2003, he first identified the water systems that would continue to purchase water from Logan. He then determined the number of gallons of water that the applicable systems would be purchasing from Logan (approximately 82,477 gallons) and multiplied that number by Logan's new resale rate ($1.373 per 1,000 gallons), which produce a total project cost of $113,240.67 for the District's purchased water costs. Logan's prior resale rate was $0.79 per 1,000 gallons. Since the actual cost for purchased water during the test year was $65,216.59, he subtracted that amount from the projected amount, leaving $48,024.08 in increased purchased water costs. He then divided the amount of increased cost by the gallons to be purchased, which resulted in the proposed $0.098 per 1,000 gallons increase. This is the same methodology that the District has used in prior *Tariff Rule* 30B cases which the Commission approved on Commission Staff's recommendation. (Tr., pp. 27-31; District Exhibit No. 1).

When Commission Staff questioned the District's methodology, Mr. Baisden examined 18 other *Tariff Rule* 30B cases involving public service districts other than Logan County Public Service District, which the Commission has decided within the past two years. He found that, in 17 out of 18 of the cases he looked at, the Commission approved the methodology that he used. As a CPA, he opined that nothing about the methodology the District used is inconsistent with *Tariff Rule* 30B. He opined that the District's filing is consistent with all of the provisions of *Tariff Rule* 30B. (Tr., pp. 31-32).

Mr. Baisden, referring to District Exhibit No. 1, indicated that the tariff contained in that Exhibit is the one that the District is using now, since the Commission, on February 11, 2004, approved the proposed rate increase on an interim basis. The Exhibit details the methodology of how he calculated the proposed *Tariff Rule* 30B rate pass-through for the District. (Tr., pp. 32-34; District Exhibit No. 1). Mr. Baisden stated that the District did not consider its 2003 rate case in its calculations. (Tr., p. 34).

Mr. Baisden believes that the Staff methodology is incorrect for this case. He agreed with the Staff witness, Mr. Flenner, that the chief difference between the District and Commission Staff is the methodology to make the calculation, not differing test years or any other significant factor. He opined that the Staff methodology is wrong. (Tr., pp. 71-73).

Mr. Baisden testified that the District employs 35 people; distributes water through over 1,000,000 feet of main lines; operates and maintains 25 tanks and over 20 pumping stations; and now operates a water treatment plant. The District has approximately 8,000 water service customers. It also has sewer service customers. He believes that, by using the District's methodology in this case, the District can postpone having to file another general rate case. From a practical standpoint, it is

not economical to file a general rate case until it is absolutely necessary. If the Commission approves the District's proposed rate in this case, the District will not have to file a general rate case soon. The District has incurred significant increases in its overall O&M expenses; however, he does not believe that it has reached the point where it would justify filing a general rate case. The Logan County Commission used to subsidize the District by paying its insurance premiums, i.e., the District was included in the County Commission's policy. Now, the District has to pay $84,000 for insurance, which was not considered in the general rate case. He opined that Staff has "half opened the rate case", which is not fair to the District. Although Mr. Baisden has reviewed previous *Tariff Rule* 30B rate cases, this is the first one that he prepared. He believes that Staff reopened the general rate case for the parts that it wanted to use but not for all matters, which he believes is not consistent with how a calculation for a pass-through of increased purchased water costs should be made. (Tr., pp. 73-78).

Mr. Baisden disagreed with Commission Staff about the definition of "qualified costs" in the context of a *Tariff Rule* 30B rate case. Staff only considered the purchased water costs embedded in the existing rates; he believes that, if the District experiences increased production costs directly related to the purchased water cost increase, those should be considered also. He believes that the correct methodology is the District's calculation, not Staff's. (Tr., pp. 78-80).

The District submitted copies of those cases mentioned by Mr. Baisden, which he reviewed for the methodology for calculating *Tariff Rule* 30B amounts, which the ALJ received into evidence as District Exhibit No. 2. (Tr., pp. 46-47; District Exhibit No. 2).

The only witness who testified on behalf of Commission Staff was Utilities Analyst James W. Flenner. He identified the March 16, 2004 Utilities Division Final Staff Recommendation, attached to the March 19, 2004 Final Joint Staff Recommendation, which the ALJ received into evidence as Staff Exhibit No. 1. He corrected a typographical error on the last page of his narrative, i.e., he changed the $235,108 amount to $235,118. He stated that this does not change the result of his calculation, since he used the $235,118 amount in his actual calculation. (Tr., pp. 34-38; Staff Exhibit No. 1).

Mr. Flenner stated that Staff's calculation and methodology does not match those of the District. Mr. Flenner first referred to Case No. 02-1399-PWD-42T, the District's most recent rate case, to determine the embedded cost of purchased water contained in the rates the Commission approved in that case. He evaluated what the District actually spent for purchased water during the test year and contrasted that amount to the embedded purchased water cost. The difference is the amount of additional revenue that the District needs to pass through Logan's resale rate increase. Using this methodology, Mr. Flenner calculated that the District needs an additional $0.04 per 1,000 gallons, not an additional $0.098 per 1,000 gallons. Mr. Fleener opined that, since an amount for purchasing water from Logan already is included in the District's existing rates, only the amount needed to purchase water that exceeds the embedded amount should be considered for the pass-through. The Staff recommendation only includes the additional amount that the District will have to spend due to the increased cost of purchased water. (Tr., pp. 38-40).

Mr. Flenner clarified that, even though only a portion of the District's customers will be using water that the District purchases from Logan, i.e., the remainder will be using water produced by the District or purchased elsewhere, the additional amount needed to purchase water from Logan should be spread over the District's entire customer base, not just among those customers who live in areas served by the water the District purchases from Logan. Also, Staff used a test year ending December 31, 2003, rather than the test year ending June 30, 2003; however, this fact does not significantly affect the Staff recommendation, i.e., the difference between Staff's recommendation and the District's proposal turns not on differing test years but on differing calculation methodologies. He does not dispute the mathematical calculations used by the District, i.e., the District reached the correct result using the methodology it employed. However, Mr. Flenner believes that the District used the incorrect method to make the calculation. This is Mr. Flenner's first direct involvement in a *Tariff Rule* 30B case. (Tr., pp. 40-42).

Mr. Flenner explained that the methodology employed by Staff is the same methodology that the Commission's Utility Division always uses. He is aware that the Water and Wastewater Division uses a different methodology which is possibly the same one used by the District. He explained the calculation method he used in more detail. In the general rate case, approximately $216,000 in purchased water cost was embedded in the rates the Commission approved. During the time since that the Commission approved that rate case, the District's operations have changed considerably. Although the total volume of water that the District sells has not materially changed since the general rate case, the sources of that water have been reconfigured significantly, i.e., since the District now has a new treatment plant online, it is not purchasing as much water as it used to purchase. During the test year, the District purchased less water than it did during the test year for the general rate case, i.e., about $185,000 instead of $216,000, or a difference of about $30,000. He opined that the additional amount that the District would be paying for purchased water under Logan's new rates would be about $49,000. After deducting the $30,000 difference between the general rate case test year and the test year ending December 31, 2003, that leaves about $19,000 to pass through to the District's customers under the *Tariff Rule* mechanism, or about a $0.04 per 1,000 gallons increase. (Tr., pp. 42-45).

Mr. Flenner used the methodology that his supervisor, Paul Stewart, directed him to use, which he believes is the correct methodology or analysis basis for calculating the increase. He really is not well-versed with the methodology employed by the Water and Wastewater Division. (Tr., pp. 45-48). Mr. Flenner reiterated that he did not consider any factors other than the increased cost of purchased water, e.g., he did not consider any other increased or decreased costs that the District might have incurred during the test year used by Staff. He read from the Commission's *Tariff Rule* 30B that the Commission's investigation into the reasonableness of the pass-through should be limited to increased qualified costs and the level of rates necessary to recover such increased costs. Mr. Flenner defined "qualified costs" as being limited to the increased costs for purchasing water due to Logan's increased resale rate. He opined that, in order to properly define the qualified cost, you have to have a starting point, which he believes is the District's latest general rate case. In that case, a certain amount was built in or embedded in the District's rates to pay for purchased water; only the

amount above what the existing rates will generate for purchased water would be a qualified cost. (Tr., pp. 48-51).

Mr. Flenner acknowledged that the analysis of the District's situation is somewhat unusual in that the amount of purchased water has decreased significantly since the general rate case due to bringing the treatment plant online. The amount of water purchased has decreased while the cost for each 1,000 gallons purchased has increased. He acknowledged that, under the Staff methodology, in some situations, such as a hypothetical case where the amount of purchased water increased and the produced water decreased, a rate decrease might occur. Mr. Flenner believes that the Commission has set rates that were reasonable in the general rate case and that only the additional amount required to purchase water from Logan that is not already embedded in the existing rates should be used to calculate the pass-through. Mr. Flenner opined that the general rate case is the correct starting point to make the calculation for this case, since, if the situation has changed enough, the District would have filed another general rate case to recover increased costs for items other than purchased water. He does not believe that the *Tariff Rule* 30B mechanism anticipates that any increased costs be recovered, except those directly related to the increased resale rate of the District's water supplier. If the new treatment plant has caused the District to incur increased operation and maintenance (O&M) expenses, the District should consider filing a general rate case, not try to obtain additional funds through the back door in the guise of a *Tariff Rule* 30B. (Tr., pp. 51-62).

Mr. Flenner acknowledged that Logan is charging the District $0.30 more per 1,000 gallons for purchased water. He is not sure at what point the Commission would require a water utility to file a rate case to decrease its rates if it is incurring a windfall. He does not believe that the elapsed time since the last general rate case is relevant. If the utility needs increased revenues for its other O&M expenses, it should file a general rate case. In calculating the pass-through rate, he did not reexamine the District's books and records; he merely used the last general rate case as the starting point. He assumed that the District's existing rates would produce some amount with which to purchase water; he then calculated the additional amount that it would need to generate with the *Tariff Rule* 30B mechanism. He opined that, had Logan not increased its resale rate, it is possible that the District would be experiencing a windfall instead of a shortfall, which would be another reason for the District to file a *Tariff Rule* 30B petition, i.e., to reduce the amount that it passes through to its customers for purchasing water for resale. (Tr., pp. 62-67).

Mr. Flenner clarified that the methodology he used to calculate the Staff-recommended pass-through amount is what the Utilities Division customarily uses. He is not aware of any rule or law that would invalidate the Staff methodology in this case. He is not aware of why the Utilities Division uses a different methodology to make the calculation. (Tr., pp. 67-70).

DISCUSSION

While the ALJ has considered all of the facts that the various witnesses brought out in this case, including the District, Commission Staff and the District's customers, the only issue before the Commission is a legal one, not a factual one, i.e., whether to adopt the methodology recommended

by Commission Staff or the methodology proposed by the District to calculate the amount of the rate increase needed to cover the increased purchased water costs.

Staff believes that the District's existing rate structure has a specified amount to cover the cost of purchasing water from Logan embedded in it and that only the additional amount that will not be generated by the existing rates should be considered in this case. By Staff's calculation, that amount would be covered by increasing the District's rates by $0.04 per 1,000 gallons.

The District believes that the correct approach is to quantify the amount of water to be purchased and subtract the amount that would be spent under Logan's previous resale rate to purchase that amount of water from the amount that it will cost to purchase the same amount of water under Logan's new rates, which the District calculates would require an increase of $0.098 per 1,000 gallons.

Both methodologies have logical merit. A straightforward analysis of this case, however, is somewhat muddled by the fact that, after the Commission approved the District's latest general rate case, the District brought online a new treatment plant, which has directly and substantially decreased the amount of water that it will be purchasing for resale from Logan. Using that general rate case as the starting point, as Staff suggests, is not necessarily a foolproof method.

The ALJ is not going to try and decide which methodology the Commission should adopt in all cases and then apply that method in this case. Obviously, based upon District Exhibit No. 2, the Commission has approved different methodologies in the past. What the ALJ will do is consider the extenuating circumstances presented by the facts of this case and apply the methodology that he believes will best achieve the purpose of this *Tariff Rule* 30B filing. The ALJ also will consider why Commission Staff used the methodology it used.

The Commission has established different divisions to handle different kinds of cases and to regulate different classes of public water utilities. Prior to creating the Water and Wastewater Division, the Commission had a Public Service District Division. In that scenario, all public service districts were treated essentially the same. The Utilities Division, which handled larger utilities, municipally operated utilities and for-profit utilities, developed a different approach for analyzing *Tariff Rule* 30B filings, i.e., the embedded cost approach as opposed to the simple arithmetic approach advocated by the District.

When the Commission established the Water and Wastewater Division, it generally divided cases based not on whether the utility was a public service district, a municipally operated utility or a for-profit utility; rather, it generally has based its decisions on which utilities were to be regulated by the Utilities Division and which were to be regulated by the Water and Wastewater Division on the size and class of utility that was being regulated. The District, with its 8,000 customers, falls within the group that the Commission regulates by referral to the Utilities Division. The methodology that the Utilities Division uses has been refined over the years to properly recover the

costs of large utilities; the methodology of the Water and Wastewater Division is geared toward properly calculating the best method to recover the costs of smaller utilities.

While both methodologies are reasonable, since the Commission has approved both in past cases, the ALJ acknowledges that, under normal circumstances, it is logical that the District be regulated by the methodologies employed by the Utilities Division with regard to calculating the amount of the *Tariff Rule* 30B pass-through amount.

However, the circumstances of this case are somewhat extenuating for several reasons. The nature of the District as it pertains to purchased water has changed dramatically since its latest general rate case. By putting the treatment plant online, the District is producing much more water than it is purchasing. For purchased water purposes, the District now more resembles a small water utility, which means that the methodology employed by the Water and Wastewater Division makes as much sense as the Utilities Division methodology.

A problem lies with the fact that, although in general terms, the larger, or Class A, utilities such as the District, generally are regulated under the methodologies of the Utilities Division, that referral basis is not contained in any of the Commission's rules or in case law. Another analysis problem is that no rule or case law of which the ALJ is aware states that the method used by the Utilities Division is correct for all Class A utilities and the method used by the Water and Wastewater Division is correct only for smaller utilities. In fact, with the issue of purchased water, the ALJ is hard-pressed to find many large water utilities that purchase water, i.e., the fact that the utilities are large generally correlates to the fact that the utilities produce, rather than purchase, water, which means that not many *Tariff Rule* 30B filings have been made by Class A utilities.

The ALJ is impressed by District Exhibit No. 2, the numerous recent cases ruled on by the Commission which employ the methodology proposed by the District. Commission Staff offered no case law, either in evidence or in argument, to contradict that methodology. In fact, the methodology recommended by Staff does appear to the ALJ to resemble a partial reopening of a closed rate case in order to consider only one element of the rate structure without considering other elements, which is akin to retroactive ratemaking and which West Virginia's statutes do not allow. "Retroactive ratemaking occurs when a utility is permitted to recover an additional charge for past losses, or when a utility is required to refund revenues collected, pursuant to then lawfully established rates." See, *VEPCO v. Public Serv. Comm'n*, 161 W.Va. 423, 248 S.E.2d 322 (1978); *C&P Tel. Co. v. Public Serv. Comm'n*, 171 W.Va. 494, 300 S.E.2d 607 (1982). Also, the Commission, with its broad scope of regulatory authority, is not required to adopt a single formula or methodology for analyzing and determining whether rates are just and reasonable. The ALJ does not have to find that one methodology has to be applied and the other rejected. See, *C&P Tel. Co. v. Public Serv. Comm'n*, 171 W.Va. 494, 300 S.E.2d 607 (1982).

The ALJ holds that it is reasonable to adopt in this proceeding the methodology proposed by the District, used regularly by the Water and Wastewater Division and approved recently by the

Commission, as the proper method of calculating the increased purchased water costs incurred by the District as a result of Logan's increased resale rate.

For the reasons set forth above, the ALJ holds that the proper amount of the rate increase to recover the costs of increased purchased water is $0.098 per 1,000 gallons. The ALJ will adopt the rates that are now in effect on an interim basis as the permanent rates for the District.

FINDINGS OF FACT

1. Logan County Public Service District filed an application under *Tariff Rule* 30B to increase its water rates and charges by $0.098 per 1,000 gallons to cover the increased purchased water costs incurred by purchasing water from the City of Logan. (See, December 3, 2003 petition).

2. The District submitted publication affidavits indicating that it had published a Public Notice of Change in Rates upon Application (*Tariff Rule* 30B) in newspapers published and generally circulated in each of the Counties of Boone, Logan, Mingo, Wyoming and Lincoln, which is where the District provides public water service. (See, December 23, 2003 filing).

3. Commission Staff opined that the District had made proper publication for this proceeding. (See, January 6, 2004 Initial Joint Staff Recommendation).

4. The Commission approved the proposed rate increase of $0.098 per 1,000 gallons of water used, on an interim basis, subject to refund. (See, February 11, 2004 Order).

5. Staff recommended increasing the District's rates by $0.04 per 1,000 gallons and refunding the difference between the Staff-recommended rate and the interim rate as a credit to the affected customers' bills. (See, March 19, 2004 Final Joint Staff Memorandum, with attachment).

6. The Administrative Law Judge adopted a procedural schedule to process and resolve this matter, including a Thursday, June 17, 2004 hearing date. Responding to a motion from Commission Staff, the Commission extended the decision due date until December 9, 2004. Responding to a motion from Commission Staff, on June 16, 2004, the ALJ issued an Order Canceling Thursday, June 17, 2004 Hearing. Upon information received from members of the public and from newspapers, it appears that several members of the public appeared at the hearing site on June 17, 2004, even though a public notice of the hearing had not been required or published, to protest the proposed rate increase. Responding to all of the above, on July 6, 2004, the ALJ issued the Order Adopting New Procedural Schedule and Requiring Publication by Executive Secretary, including a Thursday, August 26, 2004 hearing. (See, May 28, June 15 and June 16, 2004; July 6, 2004 Orders).

7. William Baisden, the District's assistant manager and a CPA with a bachelor's degree from the water resource program at West Virginia State University, prepared the District's application for this case. The nature of this Rule 30B filing is to pass through to the District's

customers a rate increase earlier approved for the City of Logan, from which the District purchases water for resale. (See, Testimony of William Baisden, Tr., pp. 25-27; District Exhibit No. 1).

8. Mr. Baisden explained the methodology the District used to calculate its proposed *Tariff Rule* 30B increase. Using a test year ending June 30, 2003, the District first identified the water systems that would continue to purchase water from Logan. Then it determined the number of gallons of water that the applicable systems would be purchasing from Logan (approximately 82,477 gallons) and multiplied that number by Logan's new resale rate ($1.373 per 1,000 gallons), which produce a total project cost of $113,240.67 for the District's purchased water costs. Logan's prior resale rate was $0.79 per 1,000 gallons. Since the actual cost for purchased water during the test year was $65,216.59, the District subtracted that amount from the projected amount, leaving $48,024.08 in increased purchased water costs. The District then divided the amount of increased cost by the gallons to be purchased, which resulted in the proposed $0.098 per 1,000 gallons increase. This is the same methodology that the District has used in prior *Tariff Rule* 30B cases which the Commission approved on Commission Staff's recommendation. (See, Testimony of William Baisden, Tr., pp. 27-31; District Exhibit No. 1).

9. When Commission Staff questioned the District's methodology, the District examined 18 other *Tariff Rule* 30B cases involving public service districts other than Logan County Public Service District, which the Commission has decided within the past two years. The District found that, in 17 out of 18 of the cases he looked at, the Commission had approved the methodology that it used. As a CPA, Mr. Baisden opined that nothing about the methodology the District used is inconsistent with *Tariff Rule* 30B. Mr. Baisden also opined that the District's filing is consistent with all of the provisions of *Tariff Rule* 30B. (See, Testimony of William Baisden, Tr., pp. 31-32, 46-47; District Exhibit No. 2).

10. The tariff contained in District Exhibit No. 1 is the one that the District is using now, since the Commission, on February 11, 2004, approved the proposed rate increase on an interim basis. District Exhibit No. 1 details the methodology of how the District calculated the proposed *Tariff Rule* 30B rate passthrough for the District. The District did not consider its 2003 rate case in its calculations. (See, Testimony of William Baisden, Tr., p. 32-34; District Exhibit No. 1).

11. The District believes that the Staff methodology is incorrect for this case. The District agreed with the Staff witness, Mr. Flenner, that the chief difference between the District's recommendation and the Commission Staff recommendation is the methodology to make the calculation, not differing test years or any other significant factor. The District simply believes that the Staff methodology is wrong. (See, Testimony of William Baisden, Tr., pp. 71-73).

12. The District has incurred significant increases in its overall O&M expenses; however, the District does not believe that it has reached the point where it would justify filing a general rate case. The Logan County Commission used to subsidize the District by paying its insurance premiums, i.e., the District was included in the County Commission's policy. Now, the District has to pay $84,000 for insurance, which was not considered in the general rate case. The District

believes that Staff has "half opened the rate case", which is not fair to the District, i.e., Staff reopened the general rate case for the parts that it wanted to use, i.e., the purchased water cost, but not for all matters, which the District believes is not consistent with how a calculation for a pass-through of increased purchased water costs should be made. (See, Testimony of William Baisden, Tr., pp. 73-78).

13. The District disagreed with Commission Staff about the definition of "qualified costs" in the context of a *Tariff Rule* 30B rate case. While Staff only considered the purchased water costs embedded in the existing rates, the District believes that, if it experiences increased production costs directly related to the purchased water cost increase, those should be considered also. The District insists that the correct methodology is the District's calculation, not Staff's. (See, Testimony of William Baisden, Tr., pp. 78-80).

14. Commission Staff's calculation and methodology does not match those of the District. Staff first referred to Case No. 02-1399-PWD-42T, the District's most-recent general rate case, to determine the embedded cost of purchased water contained in the rates the Commission approved in that case. Staff evaluated what the District actually spent for purchased water during the test year for this case and contrasted that amount to the embedded purchased water cost. Staff believes that the difference is the amount of additional revenue that the District needs to pass through Logan's resale rate increase. Using this methodology, Staff calculated that the District needs an additional $0.04 per 1,000 gallons, not an additional $0.098 per 1,000 gallons. Staff opined that, since an amount for purchasing water from Logan already is included in the District's existing rates, only the amount needed to purchase water that exceeds the embedded amount should be considered for the pass-through. (See, Testimony of James W. Flenner, Tr., pp. 34-40; Staff Exhibit No. 1).

15. Staff explained that the methodology it employed by is the same methodology that the Commission's Utility Division always uses. Staff is aware that the Water and Wastewater Division uses a different methodology which is possibly the same one used by the District. (See, Testimony of James W. Flenner, Tr., pp. 42-45).

16. In the District's most recent general rate case, approximately $216,000 in purchased waster cost was embedded in the rates the Commission approved. During the time since that the Commission approved that rate case, the District's operations have changed considerably. Although the total volume of water that the District sells has not materially changed since the general rate case, the sources of that water have been reconfigured significantly, i.e., since the District now has a new treatment plant online, it is not purchasing as much water as it used to purchase. During the test year, the District purchased less water than it did during the test year for the general rate case, i.e., about $185,000 instead of $216,000, or a difference of about $30,000. Staff opined that the additional amount that the District would be paying for purchased water under Logan's new rates would be about $49,000. After deducting the $30,000 difference between the general rate case test year and the test year ending December 31, 2003, that leaves about $19,000 to pass through to the District's customers under the Staff calculation, or about a $0.04 per 1,000 gallons increase. (See, Testimony of James W. Flenner, Tr., pp. 42-45).

17. Staff did not consider any factors other than the increased cost of purchased water, e.g., it did not consider any other increased or decreased costs that the District might have incurred during the test year used by Staff. Staff read from the Commission's *Tariff Rule* 30B that the Commission's investigation into the reasonableness of the passthrough should be limited to increased qualified costs and the level of rates necessary to recover such increased costs. Staff defined "qualified costs" as being limited to the increased costs for purchasing water due to Logan's increased resale rate. Staff opined that, in order to properly define the qualified cost, you have to have a starting point, which it believes is the District's latest general rate case. In that case, a certain amount was built in or embedded in the District's rates to pay for purchased water; only the amount above what the existing rates will generate purchased water would be a qualified cost. (See, Testimony of James W. Flenner, Tr., pp. 48-51).

18. Staff acknowledged that the analysis of the District's situation is somewhat unusual in that the amount of purchased water has decreased significantly since the general rate case due to bringing the treatment plant online. The amount of water purchased has decreased while the cost for each 1,000 gallons purchased has increased. Staff does not believe that the *Tariff Rule* 30B mechanism anticipates that any increased costs be recovered, except those directly related to the increased resale rate of the District's water supplier. Staff believes that, if the new treatment plant has caused the District to incur increased O&M expenses, the District should consider filing a general rate case, rather than trying to obtain additional funds through the back door in the guise of a *Tariff Rule* 30B. (See, Testimony of James W. Flenner, Tr., pp. 51-62).

19. Staff acknowledged that Logan is charging the District $0.30 more per 1,000 gallons for purchased water. Staff believes that, if the utility needs increased revenues for its other O&M expenses, it should file a general rate case. In calculating the pass-through rate, Staff did not reexamine the District's books and records; it merely used the last general rate case as the starting point. Staff assumed that the District's existing rates would produce some amount with which to purchase water; Staff then calculated the additional amount that the District would need to generate under the *Tariff Rule* 30B mechanism. (See, Testimony of James W. Flenner, Tr., pp. 62-67).

20. Staff clarified that the methodology it used to calculate the Staff-recommended pass through amount is what the Utilities Division customarily uses. Staff is not aware of any rule or law that would invalidate the Staff methodology in this case. Staff is not aware of why the Utilities Division uses a different methodology to make the calculation. (Tr., pp. 67-70).

CONCLUSIONS OF LAW

1. Since the District produced numerous recent cases ruled on by the Commission which employ the methodology it proposes, and Commission Staff offered no case law, either in evidence or in argument, to contradict that methodology, it is reasonable to hold that the methodology proposed by the District is a sound methodology to adopt in this case.

2. The methodology recommended by Staff amounts to a partial reopening of a closed rate case in order to consider only one element of the O&M expenses, i.e., purchased water, without considering other elements, which is akin to retroactive ratemaking and which West Virginia's statutes do not allow. "Retroactive ratemaking occurs when a utility is permitted to recover an additional charge for past losses, or when a utility is required to refund revenues collected, pursuant to then lawfully established rates." See, *VEPCO v. Public Serv. Comm'n*, 161 W.Va. 423, 248 S.E.2d 322 (1978); *C&P Tel. Co. v. Public Serv. Comm'n*, 171 W.Va. 494, 300 S.E.2d 607 (1982).

3. The Commission, with its broad scope of regulatory authority, is not required to adopt a single formula or methodology for analyzing and determining whether rates are just and reasonable. The ALJ does not have to find that one methodology has to be applied and the other rejected. See, *C&P Tel. Co. v. Public Serv. Comm'n*, 171 W.Va. 494, 300 S.E.2d 607 (1982).

4. For the reasons set forth in Conclusion of Law Nos. 1, 2 and 3, it is reasonable to adopt in this proceeding the methodology proposed by the District, used regularly by the Water and Wastewater Division and approved recently by the Commission, as the proper method for calculating the increased purchased water costs incurred by the District as a result of Logan's increased resale rate.

5. For the reasons set forth in Conclusion of Law No. 4, it is reasonable to hold that the proper amount of the rate increase for the District to recover the costs of increased purchased water is $0.098 per 1,000 gallons.

6. It is also reasonable to adopt the rates that are now in effect on an interim basis as the permanent rates for the District.

ORDER

IT IS, THEREFORE, ORDERED that the application filed with the Commission under *Tariff Rule* 30B on December 3, 2004, by the Logan County Public Service District, to increase the District's water rates and charges by $0.098 per 1,000 gallons to cover the increased purchased water costs incurred by purchasing water from the City of Logan, be, and hereby is, approved, for all service rendered by the District after this Recommended Decision becomes final.

IT IS FURTHER ORDERED that, within thirty (30) days of this Recommended Decision becoming final, the Logan County Public Service District shall file with the Commission a proper tariff setting forth the rates and charges hereby approved.

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

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

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

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

Ronnie Z. McCann
Deputy Chief Administrative Law Judge

RZM:s
032015ao.wpd

West Virginia Infrastructure & Jobs Development Council

Public Members:
Russell L. Isaacs, Chairman
Cottageville
Henry Harmon, Vice Chairman
Hurricane
Dwight Calhoun
Petersburg
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Katy Mallory, PE
Executive Secretary

Katy.Mallory@verizon.net

November 6, 2002

Mr. Rick Roberts, Managing Engineer
Logan County Public Service District
P.O. Box 506
Logan, West Virginia 25601

Re: Logan County Public Service District
Water Project 2000W-564

Dear Mr. Roberts:

The West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council") has reviewed the Logan County Public Service District's (the "District") revised preliminary application regarding its proposed project to construct waterline, one booster station, one storage tank, fire hydrants, valves, meter settings and other related appurtenances (the "Project").

Based on the findings of the Water Technical Review Committee, the Infrastructure Council has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The District should carefully review the enclosed comments of the Water Technical Review Committee as the District may need to address certain issues raised in said comments as it proceeds with the Project.

Upon consideration of the revised preliminary application, the Infrastructure Council recommends that the District pursue a $760,000 Appalachian Regional Commission grant to fund this $1,895,000 project. Please contact the West Virginia Development Office at 558-4010 for specific information on the steps the District needs to follow to apply for these funds. **Please note that this letter <u>does not</u> constitute funding approval from this agency.**

The Infrastructure Council also determined the District may be eligible for an Infrastructure Fund assistance of $1,135,000. However, the Infrastructure Council's final decision regarding specific funding of the Project is deferred pending the District's readiness to proceed and availability of funds in the Infrastructure Fund. **This letter is not a commitment letter of Infrastructure Funds.** The Project will be placed on the Infrastructure Council's pending list of projects.

If you have any questions regarding this matter, please contact Katy Mallory at 558-4607.

Sincerely,

Russell L. Isaacs

Enclosure
cc: Debbie Legg, WVDO (w/o enclosure)
Region II Planning & Development Council
James R. Bolton, P. E., Stafford Consultants, Inc.

IC-1
(11/01/04)

LOAN AGREEMENT

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT
(Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered upon request of the Council to make loans to governmental agencies for the acquisition or construction of projects by such governmental agencies, subject to such provisions and limitations as are contained in the Act;

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

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

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

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

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

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

ARTICLE I

Definitions

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

1.2 "Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Bonds, acting in its administrative capacity pursuant to Section 10 of the Act and upon authorization from the Council.

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Department of Environmental Protection, or any successor thereto.

1.4 "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section 9 of the Act.

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

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

1.7 "Local Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, as hereinafter defined,

to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

1.9 "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.

1.10 "Project" means the project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds.

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

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

ARTICLE II

The Project and the System

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

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

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

2.4 The Governmental Agency agrees that the Authority and the Council and their duly authorized agents shall have the right at all reasonable times to enter upon the

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood

insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

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

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") and the Council necessary for the construction of the Project and operation of the System, with all requisite appeal periods having expired without successful appeal, and the Authority and the Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority and the Council, to such effect;

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

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

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

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

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority, the Council or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the Loan by purchasing the Local Bonds in the principal amount and at the price set forth in Schedule X hereto. The Local Bonds shall have such further terms and provisions as described in Article IV hereof.

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

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Council for loans from the Infrastructure Fund to finance projects and that the obligation of the Authority to make any such loan is subject to the Council's authorization and the Governmental Agency's fulfilling

all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing. The Governmental Agency specifically recognizes that the Authority will not purchase the Local Bonds unless and until sufficient funds are available in the Infrastructure Fund to purchase all the Local Bonds and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available.

ARTICLE IV

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

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

(a) That the gross revenues of the System shall always be used for purposes of the System. Such gross revenues shall 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 (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit or surety) in an amount equal to the maximum amount of principal and interest which will come due on the Local Bonds in the then current or any succeeding year (the "Reserve Requirement"), by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;

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

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

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

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

(b) Covenants substantially as follows:

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

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

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

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

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

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

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

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

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

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

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

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

(xii) That the Governmental Agency shall annually adopt a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding fiscal year and shall submit a copy of such budget to the Authority and the Council 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, must (a) be deposited in a construction fund, which, except as otherwise agreed to in writing by the Authority, shall be held separate and apart from all other funds of the Governmental Agency and on which the owners of the Local Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing) and/or (b) be used to pay (or redeem) bond anticipation notes or other interim financing of such Governmental Agency, the proceeds of which were used to finance the construction of the Project; provided that, with the prior written consent of the Authority and the Council, the proceeds of the Local Bonds may be used to fund all or a portion of the Reserve Account, on which the owner of the Local Bonds shall have a lien as provided herein;

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

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

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

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

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

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and the Council, the Project is

adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

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

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

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

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

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

Council shall also certify that the Governmental Agency is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

The Governmental Agency 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, validity, sale and delivery of the Local Bonds shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit B.

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

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

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

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

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

ARTICLE V

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

5.1 The Governmental Agency hereby irrevocably covenants and agrees to comply with all of the terms, conditions and requirements of this Loan Agreement and the Local Act. The Governmental Agency hereby further irrevocably covenants and agrees that,

as one of the conditions of the Authority to make the Loan, it has fixed and collected, or will fix and collect, the rates, fees and other charges for the use of the System and will take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and in compliance with the provisions of Subsections 4.1(a) and 4.1(b)(ii) hereof.

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

5.3 In the event the Governmental Agency defaults in the payment due to the Authority pursuant to this Loan Agreement, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

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

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

ARTICLE VII

Miscellaneous

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

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

7.3 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

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

7.8 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

7.10 This Loan Agreement shall terminate upon the earlier of:

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

(ii) termination by the Authority and the Council pursuant to Section 6.1 hereof; or

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

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: _____
Its: Chairperson
Date: April 27, 2005

Attest:

_____
Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director
Date: April 27, 2005

Attest:

_____
Its: Secretary-Treasurer

000832/00466
04/07/05

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

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

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

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

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

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

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

[SEAL]

_____

By: _____
West Virginia License No. _____

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

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

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
300 Summers Street, Suite 980
Charleston, West Virginia 25301

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

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a loan agreement dated _____, _____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, _____ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are issued in the principal amount of $____, in the form of one bond, registered as to principal and interest to the Authority, with interest and principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning _____, 1, _____, and ending _____, 1, _____, as set forth in the "Schedule Y" attached to the Loan Agreement and incorporated in and made a part of the Local Bonds.

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

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

to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

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

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

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

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

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

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

Very truly yours,

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency _____
Name of Bond Issue(s) _____
Type of Project _____ **Water** _____ **Wastewater**
Fiscal Year _____ **Report Month** _____

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

_____
Name of Person Completing Form

_____
Address

_____
Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

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

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

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

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

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

EXHIBIT D

MONTHLY PAYMENT FORM

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

Re: [Name of bond issue]

Ladies and Gentlemen:

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

Sinking Fund:

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

Witness my signature this ___ day of_____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds $923,245
Purchase Price of Local Bonds $923,245

The Local Bonds shall bear no interest. Commencing March 1, 2007, principal of the Local Bonds is payable quarterly. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Governmental Agency shall submit its payments monthly to the Commission which will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

The Local Bonds are fully registered in the name of the Authority as to interest, if any, and principal and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Governmental Agency's system as provided in the Local Act.

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

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

1. Water Revenue Bonds (Cow Creek Project), Series 1996 B, dated July 31, 1996, issued in the original aggregate principal amount of $1,780,000.

2. Water Revenue Bonds (Whitman Creek Project), Series 1997 A, dated February 12, 1997, issued in the original aggregate principal amount of $1,000,000.

3. Water Revenue Bonds (Harts Creek Project), Series 1997 B, dated March 25, 1997, issued in the original aggregate principal amount of $1,075,000.

4. Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development Council), Series 1998 A, dated June 10, 1998, issued in the original aggregate principal amount of $815,000.

5. Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A, dated April 21, 1999, issued in the original aggregate principal amount of $5,050,000.

6. Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 C, dated June 17, 1999, issued in the original aggregate principal amount of $3,205,000.

7. Water Revenue Bonds (Enaloc Project-West Virginia Water Development Authority), Series 1999 D, dated December 14, 1999, issued in the original aggregate principal amount of $330,000.

8. Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority), dated September 6, 2001, issued in the original aggregate principal amount of $3,830,000.

9. Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund), dated September 6, 2001, issued in the original aggregate principal amount of $2,670,000.

10. Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), dated January 24, 2002, issued in the original aggregate principal amount of $1,326,000.

11. Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated October 9, 2002, issued in the original aggregate principal amount of $1,100,000.

12. Water Refunding Revenue Bonds, Series 2003 A, dated July 30, 2003, issued in the original aggregate principal amount of $2,200,000.

13. Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund), dated October 29, 2003, issued in the original aggregate principal amount of $3,600,000.

$923,245

Logan County Public Service District
0% Interest Rate, 40 Years from Closing
Closing Date: April 27, 2005

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	6,034.29	-	6,034.29
06/01/2007	6,034.29	-	6,034.29
09/01/2007	6,034.29	-	6,034.29
12/01/2007	6,034.29	-	6,034.29
03/01/2008	6,034.29	-	6,034.29
06/01/2008	6,034.29	-	6,034.29
09/01/2008	6,034.29	-	6,034.29
12/01/2008	6,034.29	-	6,034.29
03/01/2009	6,034.29	-	6,034.29
06/01/2009	6,034.29	-	6,034.29
09/01/2009	6,034.29	-	6,034.29
12/01/2009	6,034.29	-	6,034.29
03/01/2010	6,034.29	-	6,034.29
06/01/2010	6,034.29	-	6,034.29
09/01/2010	6,034.29	-	6,034.29
12/01/2010	6,034.29	-	6,034.29
03/01/2011	6,034.28	-	6,034.28
06/01/2011	6,034.28	-	6,034.28
09/01/2011	6,034.28	-	6,034.28
12/01/2011	6,034.28	-	6,034.28
03/01/2012	6,034.28	-	6,034.28
06/01/2012	6,034.28	-	6,034.28
09/01/2012	6,034.28	-	6,034.28
12/01/2012	6,034.28	-	6,034.28
03/01/2013	6,034.28	-	6,034.28
06/01/2013	6,034.28	-	6,034.28
09/01/2013	6,034.28	-	6,034.28
12/01/2013	6,034.28	-	6,034.28
03/01/2014	6,034.28	-	6,034.28
06/01/2014	6,034.28	-	6,034.28
09/01/2014	6,034.28	-	6,034.28
12/01/2014	6,034.28	-	6,034.28
03/01/2015	6,034.28	-	6,034.28
06/01/2015	6,034.28	-	6,034.28
09/01/2015	6,034.28	-	6,034.28
12/01/2015	6,034.28	-	6,034.28
03/01/2016	6,034.28	-	6,034.28

$923,245

Logan County Public Service District
0% Interest Rate, 40 Years from Closing
Closing Date: April 27, 2005

Debt Service Schedule

Part 2 of 4

Date	Principal	Coupon	Total P+I
06/01/2016	6,034.28	-	6,034.28
09/01/2016	6,034.28	-	6,034.28
12/01/2016	6,034.28	-	6,034.28
03/01/2017	6,034.28	-	6,034.28
06/01/2017	6,034.28	-	6,034.28
09/01/2017	6,034.28	-	6,034.28
12/01/2017	6,034.28	-	6,034.28
03/01/2018	6,034.28	-	6,034.28
06/01/2018	6,034.28	-	6,034.28
09/01/2018	6,034.28	-	6,034.28
12/01/2018	6,034.28	-	6,034.28
03/01/2019	6,034.28	-	6,034.28
06/01/2019	6,034.28	-	6,034.28
09/01/2019	6,034.28	-	6,034.28
12/01/2019	6,034.28	-	6,034.28
03/01/2020	6,034.28	-	6,034.28
06/01/2020	6,034.28	-	6,034.28
09/01/2020	6,034.28	-	6,034.28
12/01/2020	6,034.28	-	6,034.28
03/01/2021	6,034.28	-	6,034.28
06/01/2021	6,034.28	-	6,034.28
09/01/2021	6,034.28	-	6,034.28
12/01/2021	6,034.28	-	6,034.28
03/01/2022	6,034.28	-	6,034.28
06/01/2022	6,034.28	-	6,034.28
09/01/2022	6,034.28	-	6,034.28
12/01/2022	6,034.28	-	6,034.28
03/01/2023	6,034.28	-	6,034.28
06/01/2023	6,034.28	-	6,034.28
09/01/2023	6,034.28	-	6,034.28
12/01/2023	6,034.28	-	6,034.28
03/01/2024	6,034.28	-	6,034.28
06/01/2024	6,034.28	-	6,034.28
09/01/2024	6,034.28	-	6,034.28
12/01/2024	6,034.28	-	6,034.28
03/01/2025	6,034.28	-	6,034.28
06/01/2025	6,034.28	-	6,034.28
09/01/2025	6,034.28	-	6,034.28
12/01/2025	6,034.28	-	6,034.28
03/01/2026	6,034.28	-	6,034.28
06/01/2026	6,034.28	-	6,034.28
09/01/2026	6,034.28	-	6,034.28
12/01/2026	6,034.28	-	6,034.28
03/01/2027	6,034.28	-	6,034.28

$923,245

Logan County Public Service District
0% Interest Rate, 40 Years from Closing
Closing Date: April 27, 2005

Debt Service Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
06/01/2038	6,034.28	-	6,034.28
09/01/2038	6,034.28	-	6,034.28
12/01/2038	6,034.28	-	6,034.28
03/01/2039	6,034.28	-	6,034.28
06/01/2039	6,034.28	-	6,034.28
09/01/2039	6,034.28	-	6,034.28
12/01/2039	6,034.28	-	6,034.28
03/01/2040	6,034.28	-	6,034.28
06/01/2040	6,034.28	-	6,034.28
09/01/2040	6,034.28	-	6,034.28
12/01/2040	6,034.28	-	6,034.28
03/01/2041	6,034.28	-	6,034.28
06/01/2041	6,034.28	-	6,034.28
09/01/2041	6,034.28	-	6,034.28
12/01/2041	6,034.28	-	6,034.28
03/01/2042	6,034.28	-	6,034.28
06/01/2042	6,034.28	-	6,034.28
09/01/2042	6,034.28	-	6,034.28
12/01/2042	6,034.28	-	6,034.28
03/01/2043	6,034.28	-	6,034.28
06/01/2043	6,034.28	-	6,034.28
09/01/2043	6,034.28	-	6,034.28
12/01/2043	6,034.28	-	6,034.28
03/01/2044	6,034.28	-	6,034.28
06/01/2044	6,034.28	-	6,034.28
09/01/2044	6,034.28	-	6,034.28
12/01/2044	6,034.28	-	6,034.28
03/01/2045	6,034.28	-	6,034.28
Total	**$923,245.00**	-	**$923,245.00**

Yield Statistics

Bond Year Dollars	$19,244.53
Average Life	20.844 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.13E-10
Bond Yield for Arbitrage Purposes	1.13E-10
All Inclusive Cost (AIC)	1.13E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.844 Years

$923,245

Logan County Public Service District
0% Interest Rate, 40 Years from Closing
Closing Date: April 27, 2005

Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
06/01/2027	6,034.28	-	6,034.28
09/01/2027	6,034.28	-	6,034.28
12/01/2027	6,034.28	-	6,034.28
03/01/2028	6,034.28	-	6,034.28
06/01/2028	6,034.28	-	6,034.28
09/01/2028	6,034.28	-	6,034.28
12/01/2028	6,034.28	-	6,034.28
03/01/2029	6,034.28	-	6,034.28
06/01/2029	6,034.28	-	6,034.28
09/01/2029	6,034.28	-	6,034.28
12/01/2029	6,034.28	-	6,034.28
03/01/2030	6,034.28	-	6,034.28
06/01/2030	6,034.28	-	6,034.28
09/01/2030	6,034.28	-	6,034.28
12/01/2030	6,034.28	-	6,034.28
03/01/2031	6,034.28	-	6,034.28
06/01/2031	6,034.28	-	6,034.28
09/01/2031	6,034.28	-	6,034.28
12/01/2031	6,034.28	-	6,034.28
03/01/2032	6,034.28	-	6,034.28
06/01/2032	6,034.28	-	6,034.28
09/01/2032	6,034.28	-	6,034.28
12/01/2032	6,034.28	-	6,034.28
03/01/2033	6,034.28	-	6,034.28
06/01/2033	6,034.28	-	6,034.28
09/01/2033	6,034.28	-	6,034.28
12/01/2033	6,034.28	-	6,034.28
03/01/2034	6,034.28	-	6,034.28
06/01/2034	6,034.28	-	6,034.28
09/01/2034	6,034.28	-	6,034.28
12/01/2034	6,034.28	-	6,034.28
03/01/2035	6,034.28	-	6,034.28
06/01/2035	6,034.28	-	6,034.28
09/01/2035	6,034.28	-	6,034.28
12/01/2035	6,034.28	-	6,034.28
03/01/2036	6,034.28	-	6,034.28
06/01/2036	6,034.28	-	6,034.28
09/01/2036	6,034.28	-	6,034.28
12/01/2036	6,034.28	-	6,034.28
03/01/2037	6,034.28	-	6,034.28
06/01/2037	6,034.28	-	6,034.28
09/01/2037	6,034.28	-	6,034.28
12/01/2037	6,034.28	-	6,034.28
03/01/2038	6,034.28	-	6,034.28

SCHEDULE Z

None.

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LOGAN COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE REFUNDING OF THE WATERWORKS SYSTEM DESIGN NOTES, SERIES 2002 A (WEST VIRGINIA INFRASTRUCTURE FUND), OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $923,245 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LOGAN COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means, collectively, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption of this Resolution.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2005 A Bonds, or any other agency, board or department of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any temporary Acting Chairperson duly elected by the Governing Body.

"Board" or "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.

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

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

"Bonds" means, collectively, the Series 2005 A Bonds, the Prior Bonds and any additional Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 2005 A Bonds in substantially the form set forth in Section 3.10 hereof.

"Chairperson" means the Chairperson of the Governing Body of the Issuer or any temporary Acting Chairperson duly elected by the Governing Body.

"Closing Date" means the date upon which there is an exchange of the Series 2005 A Bonds for all or a portion of the proceeds of the Series 2005 A Bonds.

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

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

"Consulting Engineers" means Stafford Consultants Incorporated, Princeton, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03E hereof to be a part of the cost of acquisition and construction of the Project.

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

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

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

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

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

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

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation

of its business and affairs.

"Investment Property" means

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

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

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

"Issuer" means Logan County Public Service District, a public service district, public corporation and political subdivision of the State in Logan, Lincoln, Mingo and Wyoming Counties, West Virginia, and includes the Governing Body.

"Loan Agreement" means the Loan Agreement heretofore entered, or to be entered, into by and between the Issuer and the Authority, on behalf of the Council, providing for the purchase of the Series 2005 A Bonds from the Issuer by the Authority, the form of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Managing Engineer" means the Managing Engineer of the Issuer or any successor thereto.

"Net Proceeds" means the face amount of the Series 2005 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Series 2005 A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2005 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

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

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System, as hereinafter defined and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar and 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, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

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

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

"Paying Agent" means the Commission or other entity designated as such for the Series 2005 A Bonds in the Supplemental Resolution.

"Prior Bonds" means, collectively, the Issuer's (i) Water Revenue Bonds (Cow Creek Project), Series 1996 B, dated July 31, 1996, issued in the original aggregate principal amount of $1,780,000; (ii) Water Revenue Bonds (Whitman Creek Project), Series 1997 A, dated February 12, 1997, issued in the original aggregate principal amount of $1,000,000; (iii) Water Revenue Bonds (Harts Creek Project), Series 1997 B, dated March 25, 1997, issued in the original aggregate principal amount of $1,075,000; (iv) Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development

Council), Series 1998 A, dated June 10, 1998, issued in the original aggregate principal amount of $815,000; (v) Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A, dated April 21, 1999, issued in the original aggregate principal amount of $5,050,000; (vi) Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 C, dated June 17, 1999, issued in the original aggregate principal amount of $3,205,000; (vii) Water Revenue Bonds (Enaloc Project-West Virginia Water Development Authority), Series 1999 D, dated December 14, 1999, issued in the original aggregate principal amount of $330,000; (viii) Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority), dated September 6, 2001, issued in the original aggregate principal amount of $3,830,000; (ix) Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund), dated September 6, 2001, issued in the original aggregate principal amount of $2,670,000; (x) Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), dated January 24, 2002, issued in the original aggregate principal amount of $1,326,000; (xi) Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated October 9, 2002, issued in the original aggregate principal amount of $1,100,000; (xii) Water Refunding Revenue Bonds, Series 2003 A, dated July 30, 2003, issued in the original aggregate principal amount of $2,200,000; and (xiii) Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund), dated October 29, 2003, issued in the original aggregate principal amount of $3,600,000.

"Prior Resolutions" means, collectively, the resolutions of the Issuer authorizing the Prior Bonds adopted on July 30, 1996; February 6, 1997; March 20, 1997; May 28, 1998; April 8, 1999; June 10, 1999; December 14, 1999; August 30, 2001; January 10, 2002; October 8, 2002; July 29, 2003; and October 28, 2003.

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

"Project" means the acquisition and construction of certain improvements and extensions 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 successors to the functions thereof.

"PSC Order" means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

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

(a) Government Obligations;

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

(c) 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;

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

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of paid 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;

(g) 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

(h) Advance-Refunded Municipal Bonds.

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

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

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts of the Series 2005 A Bonds and the Prior Bonds.

"Reserve Requirements" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts.

"Resolution" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

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

"Series 2002 A Notes" means the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund), dated May 10, 2002, issued in the original aggregate principal amount of $45,675.

"Series 2005 A Bonds" means the Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 A Bonds Construction Trust Fund" means the Series 2005 A Bonds Construction Trust Fund established by Section 5.01 hereof.

"Series 2005 A Bonds Reserve Account" means the Series 2005 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2005 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 A Bonds in the then current or any succeeding year.

"Series 2005 A Bonds Sinking Fund" means the Series 2005 A Bonds Sinking Fund established by Section 5.02 hereof.

"Sinking Funds" means, collectively, the respective sinking funds of the Series 2005 A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution of the Issuer amendatory hereof or supplemental hereto and when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 2005 A Bonds; provided, that any provisions intended by this Resolution to be included in the Supplemental Resolution and not so included may be contained in any other Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the Series 2005 A Bonds and the Prior Bonds, including but not limited to the Renewal and Replacement Fund, the Reserve Accounts and the Sinking Funds.

"System" means the complete public service properties of the Issuer for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for the System from any sources whatsoever.

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

"West Virginia Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by

the Chairperson or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairperson or Acting Secretary.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms refer to this Resolution; and the term "hereafter" means after the date of 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 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

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

A. The Issuer is a public service district, public corporation and political subdivision of the State located in Logan, Lincoln, Mingo and Wyoming Counties of said State. The Issuer presently owns and operates a public water system. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by the Issuer.

B. The Issuer has heretofore issued its Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund), dated May 10, 2002, in the original principal amount of $45,675 (the "Series 2002 A Notes"), to temporarily finance a portion of the costs of design of the Project. The Series 2002 A Notes are secured by a first lien on the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer, issued subsequent to the issuance of the Series 2002 A Notes, for the acquisition and construction of the Project. The Issuer hereby determines that it is in its best interest to pay the entire outstanding principal of and all accrued interest on the Series 2002 A Notes in full with proceeds of the Series 2005 A Bonds on the date of issuance thereof. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project and the costs of refunding the Series 2002 A Notes through the issuance of its revenue bonds to the Authority.

C. The estimated maximum cost of acquisition and construction of the Project is $2,143,245, of which $923,245 will be obtained from the Series 2005 A Bonds, $460,000 will be obtained from a grant from the Council and $760,000 will be obtained from a grant from the Appalachian Regional Commission.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest on the Prior Bonds and the Series 2005 A Bonds and payments into all funds and accounts and other payments provided for herein and in the Prior Resolutions.

E. It is deemed necessary for the Issuer to issue the Series 2005 A Bonds in the aggregate principal amount of not more than $923,245, to permanently finance a portion of the costs of acquisition and construction of the Project and the costs of refunding the Series 2002 A Notes. Such costs shall be deemed to include the costs of acquisition and construction of any public service properties and any improvements and extensions thereto, the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, on the Series 2005 A Bonds prior to and during acquisition and construction of the Project and for a period not exceeding 6 months after completion of acquisition and construction of the Project; amounts which may be deposited in the Series 2005 A Bonds Reserve Account; the costs of refunding the Series 2002 A Notes; engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2005 A Bonds and such other expenses as may be necessary or incident to the financing herein authorized, the acquisition and construction 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 Series 2005 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

F. The Series 2005 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. Prior to the issuance of the Series 2005 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (ii) the written consent of the Registered Owners of the Prior Bonds (except the Series 2003 A Bonds) to the issuance of the Series 2005 A Bonds on a parity with the Prior Bonds. The Issuer is not required to obtain the parity consent of the Registered Owners of the Series 2003 A Bonds. Following the refunding of the Series 2002 A Notes and other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

H. It is in the best interests of the Issuer that the Series 2005 A Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

I. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement, relating to authorization of the acquisition, construction and operation of the Project and the System, the refunding of the Series 2002 A Notes and the issuance of the Series 2005 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the Council and the obtaining of the PSC Order, the time for rehearing and appeal of which has expired or will have been waived prior to the issuance of the Series 2005 A Bonds.

J. The Project has been reviewed and determined to be technically and financially feasible by the Council.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Series 2005 A Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of 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 Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND THE REFUNDING OF THE NOTES

Section 2.01. Authorization of Acquisition and Construction of the Project and the Refunding of the Notes. There is hereby authorized and ordered the refunding of the Series 2002 A Notes and the acquisition and construction of the Project, at an estimated cost of $2,143,245, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2005 A Bonds shall be applied as provided in Article VI hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the plan of financing submitted to the Authority and the Council.

The cost of the Project is estimated to be $2,143,245, of which $923,245 will be obtained from proceeds of the Series 2005 A Bonds, $460,000 will be obtained from a grant by the Council and $760,000 will be obtained from a grant by the Appalachian Regional Commission. The cost of refunding the Series 2002 A Notes is estimated to be $44,570, which will be obtained from proceeds of the Series 2005 A Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2005 A Bonds, funding the Series 2005 A Bonds Reserve Account, paying the Costs of the Project, paying the costs of refunding the Series 2002 A Notes and paying certain costs of issuance and related costs, or any of such purposes, as shall be specified in the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2005 A Bonds of the Issuer. The Series 2005 A Bonds shall be issued as a single bond, designated as "Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)," in an aggregate principal amount of not more than $923,245, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution. The proceeds of the Series 2005 A Bonds remaining after funding of the Series 2005 A Bonds Reserve Account (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Series 2005 A Bonds Construction Trust Fund established by Section 5.01 hereof and applied as set forth in Article VI hereof.

Section 3.02. Terms of Bonds. The Series 2005 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable quarterly on such dates; shall mature on such dates and in such amounts, and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2005 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest, if any, on the Series 2005 A Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution or herein, the Series 2005 A Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a record of advances and a debt service schedule attached, representing the aggregate principal amount of the Series 2005 A Bonds. The Series 2005 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2005 A Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2005 A 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 3.10 hereof, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2005 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered 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, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

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

the Bond Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Bonds or transferring the Bonds is exercised, all such 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 Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obligated to make any such exchange or transfer of Bonds during the period commencing on the fifteenth day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2005 A Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate, register and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing proof of its 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 and the Bond Registrar may incur. All Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2005 A 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 Registered Owner of such Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay such Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to the Prior Bonds. The payment of the debt service on the Series 2005 A Bonds shall be secured by a first lien on the Net Revenues, on a parity with the lien on the Net Revenues in favor of the Registered Owners 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 Series 2005 A Bonds and the Prior Bonds and to make payments into all funds and accounts hereinafter established and established in the Prior Resolutions, are hereby irrevocably pledged to such payments as the same become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2005 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2005 A Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate, register and deliver the Series 2005 A Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the Series 2005 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-___ $_____

KNOW ALL MEN BY THESE PRESENTS: That on this ___ day of _____, 200__, LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Logan, Lincoln, Mingo and Wyoming Counties of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the sum of _____DOLLARS ($_____), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1,_____, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council") and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____ 200_.

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest on the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund) (the "Notes"); (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of

the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public water facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on _____, 200_, and a Supplemental Resolution duly adopted by the Issuer on _____, 200_ (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 this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, DATED JULY 31, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,780,000; (2) WATER REVENUE BONDS (WHITMAN CREEK PROJECT), SERIES 1997 A, DATED FEBRUARY 12, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,000,000; (3) WATER REVENUE BONDS (HARTS CREEK PROJECT), SERIES 1997 B, DATED MARCH 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,075,000; (4) WATER REVENUE BONDS (ELK CREEK/SPICE CREEK/VERNER PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1998 A, DATED JUNE 10, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $815,000; (5) WATER REVENUE BONDS (MILL CREEK PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 A, DATED APRIL 21, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $5,050,000; (6) WATER REVENUE BONDS (CRAWLEY CREEK/CHIEF LOGAN PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 C, DATED JUNE 17, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,205,000; (7) WATER REVENUE BONDS (ENALOC PROJECT - WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), SERIES 1999 D, DATED DECEMBER 14, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $330,000 ; (8) WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED SEPTEMBER 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,830,000; (9) WATER REVENUE BONDS, SERIES 2001 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER, 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,670,000; (10) WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JANUARY 24, 2002, ISSUED IN THE ORIGINAL AGGREGATE

PRINCIPAL AMOUNT OF $1,326,000; (11) WATER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,100,000; (12) WATER REFUNDING REVENUE BONDS, SERIES 2003 A, DATED JULY 30, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,200,000; AND (13) WATER REVENUE BONDS, SERIES 2003 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,600,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Prior Bonds, and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2005 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2005 A Bonds Reserve Account and unexpended proceeds of this Bond. 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, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year, and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Resolution) of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

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

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

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

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

IN WITNESS WHEREOF, LOGAN COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

_____

Chairperson

ATTEST:

_____

Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 A Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: _____, 200_.

_____

_____, as Registrar

_____

Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$		(19)	$	
(2)	$		(20)	$	
(3)	$		(21)	$	
(4)	$		(22)	$	
(5)	$		(23)	$	
(6)	$		(24)	$	
(7)	$		(25)	$	
(8)	$		(26)	$	
(9)	$		(27)	$	
(10)	$		(28)	$	
(11)	$		(29)	$	
(12)	$		(30)	$	
(13)	$		(31)	$	
(14)	$		(32)	$	
(15)	$		(33)	$	
(16)	$		(34)	$	
(17)	$		(35)	$	
(18)	$		(36)	$	

TOTAL $

EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Authorization and Execution of Loan Agreement. The Series 2005 A Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the 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, and any such prior execution and delivery is hereby authorized, ratified and approved. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution.

Section 3.12. Filing of Amended Schedule. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority and the Council a schedule, the form of which will be provided by the Authority and the Council, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

(1) Revenue Fund (established by Prior Resolutions);

(2) Renewal and Replacement Fund (established by Prior Resolutions); and

(3) Series 2005 A Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

(1) Series 2005 A Bonds Sinking Fund; and

(2) Series 2005 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this 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 herein provided.

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

(2) The Issuer shall next, on the first day of each month, from the moneys in the Revenue Fund, remit the interest payments to the Sinking Funds of the Prior Bonds in the amounts required by the Prior Resolutions.

(3) The Issuer shall next, on the first day of each month, from the moneys in the Revenue Fund, (i) remit the principal payments to the Sinking Funds of the Prior Bonds in

the amounts required by the Prior Resolutions; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2005 A Bonds, remit to the Commission for deposit in the Series 2005 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2005 A 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 2005 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, from the moneys in the Revenue Fund, (i) remit the reserve account payments to the Reserve Accounts of the Prior Bonds in the amounts required by the Prior Resolutions; and (ii) commencing 3 months prior to the first date of payment of principal of the Series 2005 A Bonds, if not fully funded upon issuance of the Series 2005 A Bonds, remit to the Commission for deposit in the Series 2005 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2005 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2005 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2005 A Bonds Reserve Requirement.

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

Moneys in the Series 2005 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2005 A Bonds as the same shall become due. Moneys in the Series 2005 A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2005 A Bonds as the same shall come due, when other moneys in the Series 2005 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2005 A Bonds Reserve Account (if fully funded) shall be transferred, not less than once each year, to the Series 2005 A Bonds Construction Trust Fund during construction of the Project and following completion of the Project to the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2005 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2005 A Bonds Reserve Account which result in a reduction in the balance of such account to below the Series 2005 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2005 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the Series 2005 A Bonds Sinking Fund or the Series 2005 A Bonds Reserve Account when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2005 A Bonds then Outstanding and all interest, if any, to accrue until the maturity thereof.

Interest, principal or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2005 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2005 A Bonds Sinking Fund and the Series 2005 A Bonds Reserve Account created hereunder, and all amounts required for such accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority, the Issuer shall make the necessary arrangements whereby required payments into such accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates hereunder.

Moneys in the Series 2005 A Bonds Sinking Fund and the Series 2005 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2005 A Bonds Sinking Fund and the Series 2005 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2005 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payments 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. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

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

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

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent, or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay the charges and the fees then due. If required by the Authority, the Issuer shall make the necessary arrangements whereby payments to the Commission under this paragraph shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

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

G. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of

priority set forth in Section 5.03A hereof, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the Reserve Accounts have not, as of such date, funded such account to the requirement therefor.

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

ARTICLE VI

APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series 2005 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2005 A Bonds, there shall first be deposited with the Commission in the Series 2005 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 2005 A Bonds for the period commencing on the date of issuance of the Series 2005 A Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 2005 A Bonds, there shall be deposited with the Commission in the Series 2005 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2005 A Bonds Reserve Account.

C. Next, from the proceeds of the Series 2005 A Bonds, there shall be paid to the Commission, the amount set forth in the Supplemental Resolution for paying in full the entire outstanding principal of and all accrued interest on the Series 2002 A Notes.

D. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2005 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2005 A Bonds Construction Trust Fund and applied solely to payment of the costs of the Project in the manner set forth in Section 6.02 and until so expended, are hereby pledged as additional security for the Series 2005 A Bonds.

E. After completion of acquisition and construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2005 A Bonds shall be expended as directed by the Council.

Section 6.02. Disbursements from Bond Construction Trust Fund. The Issuer shall each month provide the Council with a requisition for the costs incurred for the Project, together with such documentation as the Council shall require. Payments of all costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Series 2005 A Bonds Construction Trust Fund shall be made only after submission to and approval from the Council of a certificate, signed by an Authorized Officer and the Managing Engineer, stating that:

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

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

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

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

Pending such application, moneys in the Series 2005 A Bonds Construction Trust Fund shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

The Issuer shall expend all proceeds of the Series 2005 A Bonds within 3 years of the date of issuance of the Council's bonds, the proceeds of which were used to make the loan to the Issuer.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this 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 Registered Owner of the Series 2005 A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2005 A Bonds, as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2005 A Bonds, or the interest thereon, are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2005 A 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 Registered Owner of the Series 2005 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2005 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2005 A Bonds shall be secured by a first lien on the Net Revenues, on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest, if any, on the Prior Bonds and the Series 2005 A Bonds and to make the payments into all funds and accounts and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in this Resolution and the Prior Resolutions.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreement. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2005 A Bonds are Outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all

such actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution and in compliance with the Loan Agreement. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2005 A Bonds shall prove to be insufficient to produce the required sums set forth in this Resolution and the Loan Agreement, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution and the Loan Agreement.

Section 7.05. Sale of the System. So long as the Prior Bonds are Outstanding, the System may not be sold, transferred, mortgaged, leased or otherwise disposed of, except in accordance with the terms of the Prior Resolutions. So long as the Series 2005 A Bonds are Outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay or redeem at or prior to maturity all the Bonds Outstanding, or to effectively defease this Resolution in accordance with Section 10.01 hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Series 2005 A Bonds, immediately be remitted to the Commission for deposit in the Series 2005 A Bonds Sinking Fund, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the Series 2005 A Bonds. Any balance remaining after the payment of the Series 2005 A Bonds and interest thereon, if any, shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, in writing, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease

or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Funds and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable at par, then to the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or 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, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Registered Owners of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as the Series 2005 A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2005 A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolutions (so long as the Prior Bonds are Outstanding). All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2005 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein and in the Prior Resolutions have been made and are current at the time of issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the liens of the Series 2005 A Bonds, and the interest thereon, if any, upon any of the income and revenues of the System pledged for payment of the Series 2005 A Bonds and the interest, if any, thereon in this Resolution, or upon the System or any part thereof.

The Issuer shall give the Authority and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are Outstanding, no Parity Bonds shall be issued except in accordance with the terms of the Prior Resolutions. In addition, 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 provided herein and with the prior written consent of the Authority.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2005 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of extensions or improvements to the System or refunding any Outstanding Bonds, or all such purposes.

So long as the Series 2002 A Bonds are Outstanding, no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

(1) The Bonds 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 foregoing limitation may be waived or modified by the written consent of the Registered Owners of the Series 2002 A Bonds, representing 75% of the then-outstanding principal indebtedness. In the event the foregoing limitation is waived or when the Series 2002 A Bonds are no longer Outstanding, the following parity requirement shall be met:

No Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity

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

(1) The 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 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 the improvements to be financed by such Parity Bonds and any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, including the revenues from new customers to be served, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

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

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

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens 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 Series 2005 A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to 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 such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, or their 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. The Issuer shall submit to the Authority and the Council 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 or any State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at any 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 Registered Owner of the Bonds issued pursuant to this 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 current generally accepted accounting principles 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 and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system, which may be installed remote from the direct supervision of the Governing Body, shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Authority and the Council and shall mail in each year to any Registered Owners of the 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 and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations Outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular, or any successor thereof, and the Single Audit Act, or any successor thereof, to the extent legally required, and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2005 A Bonds and shall submit said report to the Authority and the Council, or any other original purchaser of the Series 2005 A Bonds. Such audit report submitted to the Authority and the Council shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Operating Expenses and debt service and reserve requirements.

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

The Issuer shall permit the Authority and the Council, or their agents and

representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Authority and the Council, 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 Council with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to issuance of the Series 2005 A Bonds, approvals of equitable rates or charges for the use of and service rendered by the System have been obtained all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2005 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2005 A Bonds Reserve Account and the Reserve Accounts for obligations on a parity with the Series 2005 A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2005 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 A Bonds, including the Prior Bonds.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 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 Council within 30 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 Managing Engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and

maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Managing Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and the Council and to any Registered Owner of any Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Authority, the Council and any Registered Owner of any Bonds or anyone acting for and in behalf of such Registered Owner of any Bonds.

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

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

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

The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreement.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to

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

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. Except as required by law, the Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. 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 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2005 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

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

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia, 1931, as amended.

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

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

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

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

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

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

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

The Issuer has obtained all permits required by State and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2005 A Bonds required by State law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved].

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2005 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Series 2005 A Bonds; provided however, that the statutory mortgage lien of the Series 2005 A Bonds shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.20. Compliance with Loan Agreement and Law. The Issuer shall

perform, satisfy and comply with all the terms and conditions of the Loan Agreement and the Act. Notwithstanding anything herein to the contrary, the Issuer shall provide the Council with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Authority, the Council or other federal, State or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2005 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

B. The Issuer shall submit all proposed change orders to the Council for written approval. The Issuer shall obtain the written approval of the Council before expending any proceeds of the Series 2005 A Bonds held in "contingency" as set forth in the schedule attached to the certificate of the Consulting Engineers. The Issuer shall also obtain the written approval of the Council before expending any proceeds of the Series 2005 A Bonds made available due to bid or construction or project underruns.

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

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. Investment of Funds. 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, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this 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, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records relating thereto so long as the Series 2005 A Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Series 2005 A Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2005 A Bonds as a condition to issuance of the Series 2005 A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to

the Series 2005 A Bonds as may be necessary in order to maintain the status of the Series 2005 A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2005 A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2005 A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority information with respect to the Issuer's use of the proceeds of the Series 2005 A Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2005 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on the Series 2005 A Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2005 A Bonds set forth in this Resolution, any Supplemental Resolution or in the Series 2005 A Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Bond Registrar, any Paying Agent or a Registered Owner of a Bond; or

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

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

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his 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, the Loan Agreement and this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Resolution with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2005 A Bonds shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the

revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this 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 the System and shall hold, operate and maintain, manage and control the System, 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 the System as the Issuer itself might do.

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

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

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

the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

PAYMENT OF BONDS

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owner of the Series 2005 A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then this Resolution and the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2005 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. Prior to issuance of the Series 2005 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2005 A Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2005 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2005 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Resolution may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2005 A Bonds from gross income of the Registered Owner thereof.

Section 11.02. Resolution Constitutes Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the Registered Owners of the Series 2005 A Bonds and no change, variation or alteration of any kind of the provisions of this Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution and the Series 2005 A Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed; Prior Resolutions. Except for the Prior Resolutions, all orders or resolutions and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Resolution and the Prior Resolutions,

the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are Outstanding.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Public Notice of Proposed Financing. Prior to making formal application to the PSC for a certificate of public convenience and necessity and adoption of this Resolution, the Secretary of the Governing Body shall have caused to be published in a newspaper of general circulation in each municipality in Logan County Public Service District and within the boundaries of the Issuer, a Class II legal advertisement stating:

(a) The maximum amount of the Series 2005 A Bonds to be issued;

(b) The maximum interest rate and terms of the Series 2005 A Bonds originally authorized hereby;

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

(d) The maximum anticipated rates which will be charged by the Issuer; and

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the Public Service Commission of West Virginia.

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

Adopted this 26th day of April, 2005.

Chairperson

Member

Member

CERTIFICATION

Certified as a true copy of a Resolution duly adopted by the Public Service Board of Logan County Public Service District on the 26th day of April, 2005.

Dated this 27th day of April, 2005.

[SEAL]

Secretary

04/04/05
001210/00323

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of construction of a water extension to serve approximately 167 new residential and small commercial customers in the Rocky Branch, Caney Branch and surrounding areas of Logan County, including construction of approximately 38,000 feet of 8-inch or smaller water lines, one 70-gallon per minute water booster station, one 115,000 gallon nominal capacity water storage tank and various valves and hydrants, together with all appurtenant facilities.

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENT WITH RESPECT TO SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Logan County Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on April 26, 2005 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE WATERWORKS SYSTEM DESIGN NOTES, SERIES 2002 A (WEST VIRGINIA INFRASTRUCTURE FUND), OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $923,245 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, in an aggregate principal amount not to exceed $923,245 (the "Bonds" or the "Series 2005 A Bonds"), and has authorized the execution and delivery of a loan agreement relating to the Series 2005 A Bonds, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority ("the Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be therein provided for;

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

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LOGAN COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $923,245. The Series 2005 A Bonds shall be dated the date of delivery, shall finally mature March 1, 2045, and shall bear no interest. The principal of the Series 2005 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2007, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2005 A Bonds. The Series 2005 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of

the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2005 A Bonds.

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

Section 3. The Issuer hereby authorizes, approves, ratifies and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairperson and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2005 A Bonds shall be advanced from time to time as requisitioned by the Issuer.

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

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds under the Resolution.

Section 6. The Issuer hereby appoints and designates Logan Bank & Trust Company, Logan, West Virginia, to serve as the Depository Bank for the Revenue Fund.

Section 7. The Issuer hereby appoints and designates Bank One, a division of JPMorgan Chase Bank, N.A., Logan, West Virginia, to serve as the Depository Bank for the Series 2005 A Bonds Construction Trust Fund and the Renewal and Replacement Fund.

Section 8. Series 2005 A Bonds proceeds in the amount of $44,406 shall be deposited with the Commission, which together with $164 in the Notes Payment Fund held by the Commission, shall be sufficient to pay in full the entire outstanding principal of and all interest and administrative fees on the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund) (the "Notes").

Section 9. Series 2005 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2005 A Bonds Sinking Fund as capitalized interest.

Section 10. Series 2005 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2005 A Bonds Reserve Account.

Section 11. The remaining proceeds of the Series 2005 A Bonds, as advanced from time to time, shall be deposited in the Series 2005 A Bonds Construction Trust Fund for payment of costs of the Project, including costs of issuance of the Series 2005 A Bonds.

Section 12. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about April 27, 2005.

Section 13. The refunding of the Notes, the acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 14. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2005 A Bonds Sinking Fund and the Series 2005 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 15. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairperson is hereby authorized and directed to execute and deliver all such contracts.

Section 16. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 26th day of April, 2005.

Chairperson

Member

Member

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Logan County Public Service District on the 26th day of April, 2005.

Dated this 27th day of April, 2005.

[SEAL]

Secretary

04/21/05
001210/00323

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

MINUTES ON ADOPTION OF BOND
RESOLUTION AND SUPPLEMENTAL RESOLUTION

The undersigned duly appointed Secretary of the Public Service Board of Logan County Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of said Public Service Board:

*** *** ***

The Public Service Board of Logan County Public Service District met in regular session, pursuant to notice duly posted, on the 26th day of April, 2005, in Monaville, West Virginia, at the hour of 6:30 p.m.

PRESENT:	James R. Jeffrey	-	Chairperson and Member
	Mike Stone	-	Secretary and Member
	Ben F. Lowe, Jr.	-	Treasurer and Member

ABSENT: None

James R. Jeffrey, Chairperson, presided, and Mike Stone, 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.

*** *** ***

Thereupon, the Chairperson presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE WATERWORKS SYSTEM DESIGN NOTES, SERIES 2002 A (WEST VIRGINIA INFRASTRUCTURE FUND), OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST

THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $923,245 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

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

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENT WITH RESPECT TO SUCH BONDS; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

*** *** ***

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

Chairperson

Secretary

CERTIFICATION

I hereby certify that the foregoing action of Logan County Public Service District remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature on this 27th day of April, 2005.

Secretary

04/04/05
001210/00323

I, Richard Osborne, Publisher of THE LOGAN BANNER, a newspaper published in Logan County, West Virginia, do hereby certify that the annexed notice was published in said paper for 2 successive times on the following dates:

March 10, 2004 and March 17, 2004

Given under my hand this 19th day of March, 2004.

Richard Osborne
PUBLISHER

State of West Virginia
County of Logan, to-wit

Subscribed and sworn before me this 19th day of March, 2004.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA J. SMITH
[illegible]
MAN, WV 25635
My Commission Expires January 7, 2007

Barbara J. Smith
NOTARY PUBLIC

Cost of Publication $191.62

COPY OF PUBLICATION

NOTICE OF PRE-FILING
State of West Virginia
Public Service Commission
Charleston

NOTICE IS HEREBY GIVEN that Logan County Public Service District, a public utility, ha given notice to the Public Service Commission of its intent to file an Application for a Certificate of Convenience and Necessity for the construction, operation and maintenance of a potable water distribution system to serve a potential 167 customers in the unincorporated communities of Rocky Branch, Caney Branch and surrounding areas of Logan County, West Virginia.

The project will consist of the construction of approximately 37,865 feet of 8-inch and smaller diameter water main, one 70 gallons per minute booster station, one 115,000 gallons water storage tank, 26 fire hydrants, valves, individual customers meters and other related items. The total project cost is not to exceed $1,895,00.

The District intends to finance the the project with an Appalachian Regional Commission Grant of $760,000, a West Virginia Infrastructure Fund Grant of $335,000 and by issuing water revenue bonds through the West Virginia Infrastructure Fund in an amount not to exceed $800,000 at an interest rate not to exceed 3.0 percent for a term not to exceed 40 years. Interim financing will not be necessary for the project.

The proposed project-related rates for the project are not to exceed the following:

First 2,000 gallons used per month	$8.47 per 1,000 gallons
Next 58,000 gallons used per month	$8.11 per 1,000 gallons
Next 240,000 gallons used per month	$5.98 per 1,000 gallons
Over 300,000 gallons used per month	$3.13 per 1,000 gallons

The minimum bill is $16.93 per month. The bill for 4,500 gallons per month (average residential usage) is $37.22. The above rates are as submitted to the Public Service Commission in Case No. 03-2015-PWD-30B, and do not represent an increase in rates due to this project.

Resale customers of Logan County Public Service District include the Mingo County Public Service District.

The proposed rates and charges will produce approximately $52,720 annually in additional revenue, which is adequate to pay debt service and operation and maintenance expenses for the proposed system. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review if this filing and Case No. 03-2015-PWD-30B.

Service Connection Charge - $250 (Ordinary & After Construction)
Service Connection Charge - $100.00 (Prior to Construction)
Security Deposit - 2/12 of Average Annual Usage

Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission in the Certificate of Convenience and Necessity Application. Following the filing of the formal Application, there will be and additional public notice and opportunity for the submission of public protest. It is anticipated that the formal Application will be filed within 30 days of the publication of this notice.

Logan County Public Service District, a public utility in Logan, Wyoming, Lincoln, Mingo and Boone Counties, West Virginia.
James R. Jeffrey, Chair
LOGAN COUNTY PSD

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA
COUNTY OF BOONE, to-wit:

I, Janet Yeager, being duly sworn, upon my oath, do depose and say that I am Publisher of the corporation entitled Boone County Newspapers, Inc., publishers of the COAL VALLEY NEWS, that such newspaper has been published for more than one year prior to publication of the approved notice described below; that such newspaper is regularly published weekly, for at least fifty weeks during the calendar year, in the municipality of Madison, Boone County, West Virginia; that such newspaper is a newspaper of "general circulation" as that term is defined in article three, 1931, as amended, within the publication area of the aforesaid municipality; that such newspaper averages in length four or more pages, exclusive of any cover per issue; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices;

NOTICE OF PRE-FILING

State of West Virginia Public Service Commission Charleston

NOTICE IS HEREBY GIVEN that Logan County Public Service District, a public utility, has given notice to the Public Service Commission of its intent to file an Application for a Certificate of Convenience and Necessity for the construction, operation and maintenance of a potable water distribution system to serve a potential 167 customers in the unincorporated communities of Rocky Branch, Caney Branch and surrounding areas of Logan County, West Virginia.

The project will consist of the construction of approximately 37,865 feet of 8- inch and smaller diameter water main, one 70 gallons per minute booster station, one 115,000 gallons water storage tank, 26 fire hydrant, valves, individual customer meters and other related items. The total project cost is not to exceed $1,895,000.

The District intends to finance the project with an Appalachian Regional Commission Grant of $760,000, a West Virginia Infrastructure Fund Grant of $335,000 and by issuing water revenue bonds through the West Virginia Infrastructure fund in an amount not to exceed $800,000 at an interest rate not to exceed 3.0 percent for a term not to exceed 40 years. Interim financing will not be necessary for the project.

The proposed project-related rates for the project are not to exceed the following:

First 2,000 gallons used per month	$8.47 per 1,000 gallons
Next 58,000 gallons used per month	$8.11 per 1,000 gallons
Next 240,000 gallons used per month	$5.98 per 1,000 gallons
Over 300,000 gallons used per month	$3.13 per 1,000 gallons

The minimum bill is $16.93 per month. The bill for 4,500 gallons per month (average residential usage) is $37.22. The above rates are as submitted to the Public Service Commission in Case No. 03-2015-PWD-30B and do not represent an increase in rates due to this project.

Resale customers of Logan County Public Service District include the Mingo County Public Service District.

The proposed rates and charges will produce approximately $53,720 annually in additional revenue, which is adequate to pay debt service and operation and maintenance expenses for the proposed system. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing and Case No. 03-2015-PWD-30B.

Service Connection Charge - $250 (Ordinary & After Construction)
Service Connection Charge - $100.00 (Prior to Construction)
Security Deposit - 2/12 of Average Annual Usage

Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission in the Certificate of Convenience and Necessity Application. following the filing of the formal Application,there will be an additional public notice and opportunity for the submission of public protest. It is anticipated that the formal Application will be filed within 30 days of the publication of this notice.

Logan county Public Service District, a public utility in Logan, Wyoming, Lincoln, Mingo and Boone Counties, West Virginia
James R.Jeffrey, Chair
LOGAN COUNTY PSD
8-16

that the annexed notice of Logan County PSD - Notice of Pre-Filing

was duly published in the COAL VALLEY NEWS once a week for 2 successive

weeks (Class II), commencing with the issue of the 10th day of March ,

2004, and ending with the issue of the 17th day of March , 2004,

(and was posted at the _____

on the _____ day of _____, 2004;)

that said annexed notice was published on the following dates:

3/10, 3/17 , 2004

and the cost of publishing said annexed notice as aforesaid was $143.58.

Janet Yeager, Publisher

Taken, subscribed and sworn to before me in my said county this 17th day of March 2004.
My commission expires November 5, 2007.

Peggy Ann Price
Notary Public of Boone County
West Virginia

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PEGGY ANN PRICE
COAL VALLEY NEWS
P O BOX 306
MADISON WV 25130
My Commission Expires November 5, 2007

State of West Virginia, Wyoming County, to-wit:

I, Sandra G. Hurley, Publisher of Pineville Independent Herald, a paper published in the County aforesaid, do affirm that the notice hereto attached was published in said paper for 2 successive weeks, the first publication thereof being on the 10th day of March, 2004, and the subsequent publication on the 17th, day of March, 2004, the _____ day of _____, 2004, the _____ day of _____, 2004, the _____ day of _____, 2004, and the _____ day of _____, 2004.

Sandra G. Hurley

State of West Virginia, Wyoming County, to-wit:

_____ being duly sworn, says that she posted a copy of the annexed _____ at the front door of the Court House of said County, on the _____ day of _____, 2004.

Taken, subscribed and sworn to before me, this 17th day of March, 2004. Printer's fee $ 102.41

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PAULA MICKEL
WILLIAMSON DAILY NEWS
P. O. BOX 1660
WILLIAMSON, W.V. 25661
My commission expires November 19, 2011

Paula Mickel
NOTARY PUBLIC

My commission expires November 19, 2011

NOTICE OF PRE-FILING
State of West Virginia
Public Service Commission
Charleston

NOTICE IS HEREBY GIVEN that Logan County Public Service District, a public utility, has given notice to the Public Service Commission of its intent to file an Application for a Certificate of Convenience and Necessity for the construction, operation and maintenance of a potable water distribution system to serve a potential 167 customers in the unincorporated communities of Rocky Branch, Caney Branch and surrounding areas of Logan County, West Virginia.

The project will consist of the construction of approximately 37, 865 feet of 8-inch and smaller diameter water main, one 70 gallons per minute booster station, one 115,000 gallons water storage tank, 26 fire hydrants, valves, individual customer meters and other related items. The total project cost is not to exceed $1,895,000.

The District intends to finance the project with an Appalachian Regional Commission Grant of $760,000, a West Virginia Infrastructure Fund Grant of $335,000 and by issuing water revenue bonds through the West Virginia Infrastructure Fund in an amount not to exceed $800,000 at an interest rate not to exceed 3.0 percent for a term not to exceed 40 years. Interim financing will not be necessary for the project.

The proposed project-related rates for the project are not to exceed the following:

First 2,000 gallons used per month $8.47 per 1,000 gallons
Next 58,000 gallons used per month $8.11 per 1,000 gallons
Next 240,000 gallons used per month $5.98 per 1,000 gallons
Over 300,000 gallons used per month $3.13 per 1,000 gallons
The minimum bill is $16.93 per month. The bill for 4,500 gallons per month (average residential usage) is $37.22. The above rates are as submitted to the Public Service Commission in Case No. 03-2015-PWD-30B, and do not represent an increase in rates due to this project. Resale customers of Logan County Public Service District include the Mingo County Public Service District.

The proposed rates and charges will produce approximately $53,720 annually in additional revenue, which is adequate to pay debt service and operation and maintenance expenses for the proposed system. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing and Case No. 03-2015-PWD-30B.

Service Connection Charge - $250 (Ordinary & After Construction)
Service Connection Charge - $100 (Prior to Construction)
Security Deposit - 2/12 of Average Annual Usage

Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission in the Certificate of Convenience and Necessity Application. Following the filing of the formal Application, there will be an additional public notice and opportunity for the submission of public protest. It is anticipated that the formal Application will be filed within 30 days of the publication of this notice.

Logan County Public Service District, a public utility in Logan, Wyoming, Lincoln, Mingo and Boone Counties, West Virginia

James R. Jeffrey, Chair
LOGAN COUNTY PSD
3:10,17

State of West Virginia, Mingo County, to-wit:

I, Sandra G. Hurley, Publisher of Williamson Daily News, a paper published in the County aforesaid, do affirm that the notice hereto attached was published in said paper for 2 successive weeks, the first publication thereof being on the 10th day of March, 2004, and the subsequent publication on the 19th, day of March, 2004, the _____ day of _____, 2004, the _____ day of _____, 2004, the _____ day of _____, 2004, and the _____ day of _____, 2004.

Sandra G. Hurley

State of West Virginia, Mingo County, to-wit:

_____ being duly sworn, says that she posted a copy of the annexed _____ at the front door of the Court House of said County, on the _____ day of _____, 2004.

Taken, subscribed and sworn to before me, this 19th day of March, 2004. Printer's fee $ 107.80

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PAULA MICKEL
WILLIAMSON DAILY NEWS
P. O. BOX 1660
WILLIAMSON, W.V. 25661
My commission expires November 19, 2011

Paula Mickel
NOTARY PUBLIC

My commission expires November 19, 2011

NOTICE OF PRE-FILING
State of West Virginia
Public Service Commission
Charleston

NOTICE IS HEREBY GIVEN that Logan County Public Service District, a public utility, has given notice to the Public Service Commission of its intent to file an Application for a Certificate of Convenience and Necessity for the construction, operation and maintenance of a potable water distribution system to serve a potential 167 customers in the unincorporated communities of Rocky Branch, Caney Branch and surrounding areas of Logan County, West Virginia.

The project will consist of the construction of approximately 37,965 feet of 8-inch and smaller diameter water main, one 70 gallons per minute booster station, one 115,000 gallons water storage tank, 26 fire hydrants, valves, individual customer meters and other related items. The total project cost is not to exceed $1,895,000.

The District intends to finance the project with an Appalachian Regional Commission Grant of $760,000, a West Virginia Infrastructure Fund Grant of $335,000 and by issuing water revenue bonds through the West Virginia Infrastructure Fund in an amount not to exceed $800,000 at an interest rate not to exceed 3.0 percent for a term not to exceed 40 years. Interim financing will not be necessary for the project.

The proposed project-related rates for the project are not to exceed the following:

First 2,000 gallons used per month $8.47 per 1,000 gallons
Next 58,000 gallons used per month $6.11 per 1,000 gallons
Next 240,000 gallons used per month $5.98 per 1,000 gallons
Over 300,000 gallons used per month $3.13 per 1,000 gallons

The minimum bill is $16.93 per month. The bill for 4,500 gallons per month (average residential usage) is $37.22. The above rates are as submitted to the Public Service Commission in Case No. 03-2015-PWD-30B, and do not represent an increase in rates due to this project. Resale customers of Logan County Public Service District include the Mingo County Public Service District.

The proposed rates and charges will produce approximately $53,720 annually in additional revenue, which is adequate to pay debt service and operation and maintenance expenses for the proposed system. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing and Case No. 03-2015-PWD-30B.

Service Connection Charge - $250 (Ordinary & After Construction)
Service Connection Charge - $100 (Prior to Construction)
Security Deposit - 2/12 of Average Annual Usage

Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission in the Certificate of Convenience and Necessity Application. Following the filing of the formal Application, there will be an additional public notice and opportunity for the submission of public protest. It is anticipated that the formal Application will be filed within 30 days of the publication of this notice.

Logan County Public Service District, a public utility in Logan, Wyoming, Lincoln, Mingo and Boone Counties, West Virginia

James R. Jeffrey, Chair
LOGAN COUNTY PSD

THE LINCOLN JOURNAL INC.

Publishers Of: The Lincoln Journal / The Weekly News Sentinel / The Lincoln Times

AFFIDAVIT OF PUBLICATION

STATE OF WEST VIRGINIA
COUNTY OF LINCOLN, to wit:

I, **THOMAS A ROBINSON**, Publisher, being duly sworn upon my oath do depose and say that I am proprietor of the entitles:

The Lincoln Journal and ***The Weekly News Sentinel*** two separate newspapers, both being a **weekly** newspaper; plus our internet site www.lincolnjournal.com where your legal advertisement appeared at no extra cost to you; that such papers have been published for more than one year prior to publication of the annexed notice described below; that such newspapers are regularly published weekly, for at least fifty weeks during the calendar year, the Municipality of Hamlin, Lincoln County, West Virginia; that such newspapers are newspapers of "general circulation" as that term is defined in article three, chapter fifty-nine of the Code of West Virginia 1931, as amended, within the publication area or areas of the aforesaid municipality and county; that such newspapers average in length of four or more pages, exclusive of any cover, per issue; that such newspapers are circulated to the general public at a definite price or consideration; that such newspapers are newspapers to which the general public resorts for posting of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements, and other notices; that the annexed notice of

Notice of Pre-Filing State of WV Public Service Commission Charleston

was duly published in said newspapers once a week for **2** week(s), commencing with the issue **10th** day of **March** and ending with the issue of the **17th** day of **March, 2004** that said annexed notice was published on the following dates: **March 10, & 17, 2004** and the cost of publishing the annexed notice as aforesaid was **$395.01.**

Thomas A Robinson, Publisher

Taken, subscribed and sworn before me in my said county this **22nd** day of **March** 2004.

Official Seal
Notary Public, State of West Virginia
Patty Robinson
P.O. Box 308
Hamlin, WV 25523
My commission expires October 4, 2005

Patty Robinson

Patty Robinson, Notary Public of Lincoln County, West Virginia.
My commission expires **October 4, 2005.**

P.O. Box 308 • 328 Walnut Street • Hamlin, WV 25523
(304) 824-5101 ~ FAX (304) 824-5210 ~ E-Mail: LincolnJournal@zoominternet.net

dvertisements

)F PROPOSED LEVY RATES
OUNTY BOARD OF EDUCATION
al Year Ended June 30, 2005

hat the amount to be raised by a levy of taxes for the purposes and within the limits e to adopt the following levy rates to be laid on each one hundred dollars of

Column E	Current Expense Levy	
Certificate of Valuation	Levy	Taxes
sed Value for Tax Purposes	Rate/$100	Levied
471,665	20.48%	$ 966
-		-
471,665		966
95,099,280	40.96%	389,527
1,110,376		4,548
96,209,656		394,075
54,421,959	81.92%	445,825
95,640,572		783,488
49,366,160		404,408
199,428,691		1,633,721
6,125,260	81.92%	50,178
2,382,192		19,515
4,335,844		35,519
12,843,296		105,212
308,953,308		$ 2,133,974
	7.50%	(160,048)
	2.50%	(53,349)
		-
Valuation Fund		1,920,577
	2.00%	(38,412)
		$ 1,882,165

certified copies of the canvass of votes must be on file with the State Auditor's id levy rates can be approved.

SIGNED THIS 15th DAY OF MARCH, 2004, BY

WILLIAM K GRIZZELL COUNTY SUPERINTENDENT

Signature

SCHEDULE OF PROPOSED LEVY RATES
_____ COUNTY BOARD OF EDUCATION
For the Fiscal Year Ended June 30, 2005

	Permanent Improvement		Bond Levy	
Taxes	Levy	Taxes	Levy	Taxes

LEGAL ADVERTISEMENT

NOTICE OF PRE-FILING
State of West Virginia
Public Service Commission
Charleston

NOTICE IS HEREBY GIVEN that Logan County Public Service District, a public utility, has given notice to the Public Service Commission of its intent to file an Application for a Certificate of Convenience and Necessity for the construction, operation and maintenance of a potable water distribution system to serve a potential 187 customers in the unincorporated communities of Rocky Branch, Caney Branch and surrounding areas of Logan County, West Virginia.

The project will consist of the construction of approximately 37,865 feet of 8-inch and smaller diameter water main, one 70 gallons per minute booster station, one 115,000 gallons water storage tank, 26 fire hydrants, valves, individual customer meters and other related items. The total project cost is not to exceed $1 895,000.

The District intends to finance the project with an Appalachian Regional Commission Grant of $760,000, a West Virginia Infrastructure Fund Grant of $335,000 and by issuing water revenue bonds through the West Virginia Infrastructure Fund in an amount not to exceed $800,000 at an interest rate not to exceed 3.0 percent for a term not to exceed 40 years. Interim financing will not be necessary for the project.

The proposed project-related rates for the project are not to exceed the following:

First 2,000 gallons used per month	$8.47 per 1 000 gallons
Next 58,000 gallons used per month	$8.11 per 1,000 gallons
Next 240,000 gallons used per month	$5.98 per 1,000 gallons
Over 300,000 gallons used per month	$3.13 per 1,000 gallons

The minimum bill is $16.93 per month. The bill for 4,500 gallons per month (average residential usage) is $37.22. The above rates are as submitted to the Public Service Commission in Case No. 03-2015-PWD-30B, and do not represent an increase in rates due to this project.

Resale customers of Logan County Public Service District include the Mingo County Public Service District.

The proposed rates and charges will produce approximately $53,720 annually in additional revenue, which is adequate to pay debt service and operation and maintenance expenses for the proposed system. Furthermore, the requested rates and charges are only a proposal and are subject to change (increase or decrease) by the Public Service Commission in its review of this filing and Case No. 03-2015-PWD-30B.

Service Connection Charge - $250 (Ordinary & After Construction)
Service Connection Charge - $100.00 (Prior to Construction,
Security Deposit – 2/12 of Average Annual Usage

Any increase in rates and charges will not become effective until authorized and approved by the Public Service Commission in the Certificate of Convenience and Necessity Application. Following the filing of the formal Application there will be an additional public notice and opportunity for the submission of public protest. It is anticipated that the formal Application will be filed within 30 days of the publication of this notice.

Logan County Public Service District, a public utility in Logan, Wyoming, Lincoln, Mingo and Boone Counties, West Virginia.

James R. Jeffrey, Chair
LOGAN COUNTY PSD

Virginia Code as amended.

Any person seeking to impeach or establish a will must make a complaint in accordance with the provisions of Section 11, 12, or 13, Article 5, Chapter 41 of the West Virginia State Code.

Settlement of the estate of the following named decedents will

NAME AND ADDRESS
Guy Johnson
Rt. 1 Box 254
West Hamlin, WV. 25571
ATTORNEY
Boyce Griffith
PO Box 355
Hamlin, WV. 25523

NAME OF DECEDENT
Lyle Ernest Justice
PERSONAL

Adrian Rusk
162 Harless Fk. R
Branchland, WV. 25
ATTORNEY
Boyce Griffith
PO Box 355
Hamlin, WV. 2552

Donald C. Whit
Clerk of the Linc
County Commiss
Da
February 27, 2
Melissa A. Lo
Deputy Cl
Publish
March 10, 2
2/3-18-04

LEGAL ADVERTISEME

NOTICE OF TRUSTEE'S SALE
NOTICE
TRUSTEE'S SALE

Notice of Beneficiary, Servic election to sell proper hereby given pursuan and by virtue of authority vested in Trustee by that cer Deed of Trust da March 19, 1981, exe ed by Gary C. John and Rebecca Johnson, to James Facemire, Trustee, record in the Office of Clerk of the Cou Commission of Linc County, West Virginia Book 61, at Page 6 Philip B. Hereford v appointed as Trustee

APPOINTMENT SUCCESSOR TRUST

dated February 23, 20 of record in the Cle Office in Book 167, Page 234. The borrow defaulted under the N and Deed of Trust a the Trustee has be instructed to foreclo under the Deed of Tru Accordingly, the Trust will sell the follow described property to t highest bidder at the fr door of the Courthou of Lincoln County, Hamlin, West Virgin on:

TUESDAY, MARCH 3 2004 AT 11:45 O'CLOCK A.M.

The property described as all of th certain tract or parcel property in Washingt District, Lincoln Coun West Virginia, more pa ticularly bounded a

I, Richard Osborne, Publisher of THE LOGAN BANNER, a newspaper published in Logan County, West Virginia, do hereby certify that the annexed notice was published in said paper for 1 successive times on the following dates:

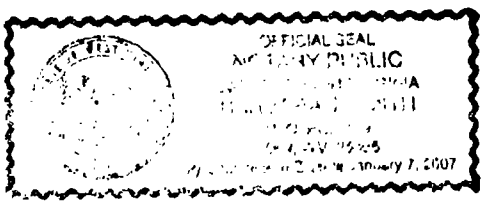
April 15, 2005

Given under my hand this 18th day of April, 2005.

Richard Osborne
PUBLISHER

State of West Virginia
County of Logan, to-wit

Subscribed and sworn before me this 18th day of April, 2005.



Barbara J. Smith
NOTARY PUBLIC

Cost of Publication $31.14

COPY OF PUBLICATION

LOGAN COUNTY PUBLIC SERVICE DISTRICT NOTICE OF REGULAR MEETING

The Public Service Board of Logan County Public Service District (the "District") will hold a regular meeting on April 26, 2005, at 6:30 p.m., prevailing time, at the District's office at 41 Armory Road, Monaville, West Virginia, for the following purposes:

1. To consider and adopt a proposed Bond Resolution authorizing its Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the principal amount of $923,245 (the "Bonds"0. to pay the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the District (the "Project") and the costs of issuance and related costs.

2. To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds.

3. To consider and adopt a proposed Resolution approving the invoices in connection with the Project for payment with proceeds of the Bonds.

4. To consider and approve all other documents and matters in connection with the financing and construction of the Project.

This meeting is open to the press and the public and any person interested may attend such meeting.

AR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR- 1 $923,245

KNOW ALL MEN BY THESE PRESENTS: That on this 27th day of April, 2005, LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Logan, Lincoln, Mingo and Wyoming Counties 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 NINE HUNDRED TWENTY THREE THOUSAND TWO HUNDRED FORTY FIVE DOLLARS ($923,245), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2007, as set forth on the "Debt Service Schedule" attached as EXHIBIT B hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council") and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated April 27, 2005.

SPECIMEN

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest on the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund) (the "Notes"); (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public water facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Bond Resolution duly adopted by the Issuer on April 26, 2005, and a Supplemental Resolution duly adopted by the Issuer on April 26, 2005 (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 this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, DATED JULY 31, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,780,000; (2) WATER REVENUE BONDS (WHITMAN CREEK PROJECT), SERIES 1997 A, DATED FEBRUARY 12, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,000,000; (3) WATER REVENUE BONDS (HARTS CREEK PROJECT), SERIES 1997 B, DATED MARCH 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,075,000; (4) WATER REVENUE BONDS (ELK CREEK/SPICE CREEK/VERNER PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1998 A, DATED JUNE 10, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $815,000; (5) WATER REVENUE BONDS (MILL CREEK PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 A, DATED APRIL 21, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $5,050,000; (6) WATER REVENUE BONDS (CRAWLEY CREEK/CHIEF LOGAN PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 C, DATED JUNE 17, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,205,000; (7) WATER REVENUE BONDS (ENALOC PROJECT - WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), SERIES 1999 D, DATED DECEMBER 14, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $330,000 ; (8) WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA WATER DEVELOPMENT

SPECIMEN

AUTHORITY), DATED SEPTEMBER 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,830,000; (9) WATER REVENUE BONDS, SERIES 2001 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER, 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,670,000; (10) WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JANUARY 24, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,326,000; (11) WATER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,100,000; (12) WATER REFUNDING REVENUE BONDS, SERIES 2003 A, DATED JULY 30, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,200,000; AND (13) WATER REVENUE BONDS, SERIES 2003 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,600,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Prior Bonds, and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2005 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 2005 A Bonds Reserve Account and unexpended proceeds of this Bond. 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, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount of principal of and interest, if any, on this Bond payable in any year, and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account, an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner (as defined in the Resolution) of this

Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

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

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

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

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

IN WITNESS WHEREOF, LOGAN COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

SPECIMEN

Chairperson

ATTEST:

SPECIMEN

Secretary

AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 A Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: April 27, 2005.

UNITED BANK, INC., as Registrar

Authorized Officer

SPECIMEN

AR-1

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

	AMOUNT	DATE		AMOUNT	DATE
(1)	$105,885	4/27/05	(19)	$	
(2)	$		(20)	$	
(3)	$		(21)	$	
(4)	$		(22)	$	
(5)	$		(23)	$	
(6)	$		(24)	$	
(7)	$		(25)	$	
(8)	$		(26)	$	
(9)	$		(27)	$	
(10)	$		(28)	$	
(11)	$		(29)	$	
(12)	$		(30)	$	
(13)	$		(31)	$	
(14)	$		(32)	$	
(15)	$		(33)	$	
(16)	$		(34)	$	
(17)	$		(35)	$	
(18)	$		(36)	$	

TOTAL $_____

EXHIBIT B

SPECIMEN

$923,245

Logan County Public Service District (West Virginia)

0% Interest Rate, 40 Years from Closing

Closing Date: April 27, 2005

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
06/01/2005	-	-	-
09/01/2005	-	-	-
12/01/2005	-	-	-
03/01/2006	-	-	-
06/01/2006	-	-	-
09/01/2006	-	-	-
12/01/2006	-	-	-
03/01/2007	6,034.29	-	6,034.29
06/01/2007	6,034.29	-	6,034.29
09/01/2007	6,034.29	-	6,034.29
12/01/2007	6,034.29	-	6,034.29
03/01/2008	6,034.29	-	6,034.29
06/01/2008	6,034.29	-	6,034.29
09/01/2008	6,034.29	-	6,034.29
12/01/2008	6,034.29	-	6,034.29
03/01/2009	6,034.29	-	6,034.29
06/01/2009	6,034.29	-	6,034.29
09/01/2009	6,034.29	-	6,034.29
12/01/2009	6,034.29	-	6,034.29
03/01/2010	6,034.29	-	6,034.29
06/01/2010	6,034.29	-	6,034.29
09/01/2010	6,034.29	-	6,034.29
12/01/2010	6,034.29	-	6,034.29
03/01/2011	6,034.28	-	6,034.28
06/01/2011	6,034.28	-	6,034.28
09/01/2011	6,034.28	-	6,034.28
12/01/2011	6,034.28	-	6,034.28
03/01/2012	6,034.28	-	6,034.28
06/01/2012	6,034.28	-	6,034.28
09/01/2012	6,034.28	-	6,034.28
12/01/2012	6,034.28	-	6,034.28
03/01/2013	6,034.28	-	6,034.28
06/01/2013	6,034.28	-	6,034.28
09/01/2013	6,034.28	-	6,034.28
12/01/2013	6,034.28	-	6,034.28
03/01/2014	6,034.28	-	6,034.28
06/01/2014	6,034.28	-	6,034.28
09/01/2014	6,034.28	-	6,034.28
12/01/2014	6,034.28	-	6,034.28
03/01/2015	6,034.28	-	6,034.28
06/01/2015	6,034.28	-	6,034.28
09/01/2015	6,034.28	-	6,034.28
12/01/2015	6,034.28	-	6,034.28
03/01/2016	6,034.28	-	6,034.28

$923,245

SPECIMEN

Logan County Public Service District (West Virginia)
0% Interest Rate, 40 Years from Closing
Closing Date: April 27, 2005

Debt Service Schedule

Part 2 of 4

Date	Principal	Coupon	Total P+I
06/01/2016	6,034.28	-	6,034.28
09/01/2016	6,034.28	-	6,034.28
12/01/2016	6,034.28	-	6,034.28
03/01/2017	6,034.28	-	6,034.28
06/01/2017	6,034.28	-	6,034.28
09/01/2017	6,034.28	-	6,034.28
12/01/2017	6,034.28	-	6,034.28
03/01/2018	6,034.28	-	6,034.28
06/01/2018	6,034.28	-	6,034.28
09/01/2018	6,034.28	-	6,034.28
12/01/2018	6,034.28	-	6,034.28
03/01/2019	6,034.28	-	6,034.28
06/01/2019	6,034.28	-	6,034.28
09/01/2019	6,034.28	-	6,034.28
12/01/2019	6,034.28	-	6,034.28
03/01/2020	6,034.28	-	6,034.28
06/01/2020	6,034.28	-	6,034.28
09/01/2020	6,034.28	-	6,034.28
12/01/2020	6,034.28	-	6,034.28
03/01/2021	6,034.28	-	6,034.28
06/01/2021	6,034.28	-	6,034.28
09/01/2021	6,034.28	-	6,034.28
12/01/2021	6,034.28	-	6,034.28
03/01/2022	6,034.28	-	6,034.28
06/01/2022	6,034.28	-	6,034.28
09/01/2022	6,034.28	-	6,034.28
12/01/2022	6,034.28	-	6,034.28
03/01/2023	6,034.28	-	6,034.28
06/01/2023	6,034.28	-	6,034.28
09/01/2023	6,034.28	-	6,034.28
12/01/2023	6,034.28	-	6,034.28
03/01/2024	6,034.28	-	6,034.28
06/01/2024	6,034.28	-	6,034.28
09/01/2024	6,034.28	-	6,034.28
12/01/2024	6,034.28	-	6,034.28
03/01/2025	6,034.28	-	6,034.28
06/01/2025	6,034.28	-	6,034.28
09/01/2025	6,034.28	-	6,034.28
12/01/2025	6,034.28	-	6,034.28
03/01/2026	6,034.28	-	6,034.28
06/01/2026	6,034.28	-	6,034.28
09/01/2026	6,034.28	-	6,034.28
12/01/2026	6,034.28	-	6,034.28
03/01/2027	6,034.28	-	6,034.28

$923,245

SPECIMEN

Logan County Public Service District (West Virginia)
0% Interest Rate, 40 Years from Closing
Closing Date: April 27, 2005

Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
06/01/2027	6,034.28	-	6,034.28
09/01/2027	6,034.28	-	6,034.28
12/01/2027	6,034.28	-	6,034.28
03/01/2028	6,034.28	-	6,034.28
06/01/2028	6,034.28	-	6,034.28
09/01/2028	6,034.28	-	6,034.28
12/01/2028	6,034.28	-	6,034.28
03/01/2029	6,034.28	-	6,034.28
06/01/2029	6,034.28	-	6,034.28
09/01/2029	6,034.28	-	6,034.28
12/01/2029	6,034.28	-	6,034.28
03/01/2030	6,034.28	-	6,034.28
06/01/2030	6,034.28	-	6,034.28
09/01/2030	6,034.28	-	6,034.28
12/01/2030	6,034.28	-	6,034.28
03/01/2031	6,034.28	-	6,034.28
06/01/2031	6,034.28	-	6,034.28
09/01/2031	6,034.28	-	6,034.28
12/01/2031	6,034.28	-	6,034.28
03/01/2032	6,034.28	-	6,034.28
06/01/2032	6,034.28	-	6,034.28
09/01/2032	6,034.28	-	6,034.28
12/01/2032	6,034.28	-	6,034.28
03/01/2033	6,034.28	-	6,034.28
06/01/2033	6,034.28	-	6,034.28
09/01/2033	6,034.28	-	6,034.28
12/01/2033	6,034.28	-	6,034.28
03/01/2034	6,034.28	-	6,034.28
06/01/2034	6,034.28	-	6,034.28
09/01/2034	6,034.28	-	6,034.28
12/01/2034	6,034.28	-	6,034.28
03/01/2035	6,034.28	-	6,034.28
06/01/2035	6,034.28	-	6,034.28
09/01/2035	6,034.28	-	6,034.28
12/01/2035	6,034.28	-	6,034.28
03/01/2036	6,034.28	-	6,034.28
06/01/2036	6,034.28	-	6,034.28
09/01/2036	6,034.28	-	6,034.28
12/01/2036	6,034.28	-	6,034.28
03/01/2037	6,034.28	-	6,034.28
06/01/2037	6,034.28	-	6,034.28
09/01/2037	6,034.28	-	6,034.28
12/01/2037	6,034.28	-	6,034.28
03/01/2038	6,034.28	-	6,034.28

$923,245

Logan County Public Service District (West Virginia)

0% Interest Rate, 40 Years from Closing

Closing Date: April 27, 2005

SPECIMEN

Debt Service Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
06/01/2038	6,034.28	-	6,034.28
09/01/2038	6,034.28	-	6,034.28
12/01/2038	6,034.28	-	6,034.28
03/01/2039	6,034.28	-	6,034.28
06/01/2039	6,034.28	-	6,034.28
09/01/2039	6,034.28	-	6,034.28
12/01/2039	6,034.28	-	6,034.28
03/01/2040	6,034.28	-	6,034.28
06/01/2040	6,034.28	-	6,034.28
09/01/2040	6,034.28	-	6,034.28
12/01/2040	6,034.28	-	6,034.28
03/01/2041	6,034.28	-	6,034.28
06/01/2041	6,034.28	-	6,034.28
09/01/2041	6,034.28	-	6,034.28
12/01/2041	6,034.28	-	6,034.28
03/01/2042	6,034.28	-	6,034.28
06/01/2042	6,034.28	-	6,034.28
09/01/2042	6,034.28	-	6,034.28
12/01/2042	6,034.28	-	6,034.28
03/01/2043	6,034.28	-	6,034.28
06/01/2043	6,034.28	-	6,034.28
09/01/2043	6,034.28	-	6,034.28
12/01/2043	6,034.28	-	6,034.28
03/01/2044	6,034.28	-	6,034.28
06/01/2044	6,034.28	-	6,034.28
09/01/2044	6,034.28	-	6,034.28
12/01/2044	6,034.28	-	6,034.28
03/01/2045	6,034.28	-	6,034.28
Total	**$923,245.00**	**-**	**$923,245.00**

Yield Statistics

Bond Year Dollars	$19,244.53
Average Life	20.844 Years
Average Coupon	-
Net Interest Cost (NIC)	
True Interest Cost (TIC)	1.13E-10
Bond Yield for Arbitrage Purposes	1.13E-10
All Inclusive Cost (AIC)	1.13E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.844 Years

AR-1

ASSIGNMENT

SPECIMEN

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$923,245	April 27, 2005

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

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

Signature of Registrar:

United Bank, Inc.
Charleston, West Virginia

Authorized Representative

04/21/05
001210/00323

M0421546.1

WEST VIRGINIA
Water Development Authority

Celebrating 31 Years of Service 1974 - 2005

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CONSENT TO ISSUANCE OF BONDS

In reliance upon a certificate of the Issuer's certified public accountant stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) (the "Series 2005 A Bonds"), in the original aggregate principal amount of $923,245, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2005 A Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i)Water Revenue Bonds (Cow Creek Project), Series 1996 B; (ii) Water Revenue Bonds (Whitman Creek Project), Series 1997 A; (iii) Water Revenue Bonds (Harts Creek Project), Series 1997 B; (iv) Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development Council), Series 1998 A; (v) Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A; (vi) Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 C; (vii) Water Revenue Bonds (Enaloc Project-West Virginia Water Development Authority), Series 1999 D; (viii) Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority); (ix) Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund); (x) Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund); and (xi) Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds").

WITNESS my signature on this 27th day of April, 2005.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wwda.org

USDA UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

75 High Street Federal Building, Suite 320, Morgantown, WV 26505-7500
304.284.4860 • 1.800.295.8228 • fax 304.284.4893 • TTY/TDD 304.284.4836

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CONSENT TO ISSUANCE OF PARITY BONDS

The undersigned duly authorized representative of the United States of America, acting through the United States Department of Agriculture, Rural Development, the registered owner of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2005A (West Virginia Infrastructure Fund) (the "Series 2005 A Bonds"), in the original principal amount of $923,245, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2005 A Bonds (collectively, the "Resolution"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2002 A (United States Department of Agriculture) (the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the resolutions authorizing the Prior Bonds (the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Series 2005 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESS my signature on this 21st day of April, 2005.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT

Richard E. Smithfield
Acting State Director

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. LOAN AGREEMENT
13. SPECIMEN BOND
14. BOND PROCEEDS
15. CONFLICTS OF INTEREST
16. VERIFICATION OF SCHEDULE
17. GRANTS
18. WETLANDS COVENANT
19. PROCUREMENT OF ENGINEERING SERVICES
20. COUNTERPARTS

On this 27th day of April, 2005, we, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Logan County Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds" or the "Series 2005 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on April 26, 2005, the Supplemental Resolution duly adopted by the Issuer on April 26, 2005 (collectively, the "Resolution"), and the loan agreement for the Series 2005 A Bonds by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated April 27, 2005 (the "Loan Agreement").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited by the Issuer in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery of the Loan Agreement. The Issuer has met all conditions set forth in the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Series 2005 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The Issuer has obtained (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met and (ii) the written consent of the Registered Owners of the Prior Bonds (except the Series 2003 A Bonds) to the issuance of the Series 2005 A Bonds on a parity with the Prior Bonds. The Issuer is not required to obtain the parity consent of the Registered Owners of the Series 2003 A Bonds.

Following the refunding of the Series 2002 A Notes and other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. SIGNATURES AND DELIVERY: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; the Registrar did officially authenticate, register and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Orders of the Public Service Commission of West Virginia (the "PSC") entered on June 16, 2004, and April 5, 2005, in Case No. 04-0575-PWD-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the June 16, 2004 Order has expired prior to the date hereof without any appeal having been filed. The time for appeal of the April 5, 2005 Order has not expired on the date hereof. However, the parties to such Order have stated that they will not appeal such Order. The Issuer hereby certifies that it will not appeal such Order. Both Orders remain in full force and effect.

The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed, the cost of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. RATES: The rates for the System, as approved by the PSC order entered December 8, 2004, in Case No. 03-2015-PWD-30B, are currently in effect. Such rates will become effective with respect to the new customers when the Project is placed in service. The time for appeal for such order has expired prior to the date hereof and such order remains in full force and effect.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Logan County Public Service District." The Issuer is a public service district and public corporation duly created by The County Commission of Logan County and existing under the laws of, and a political subdivision of, the State of West Virginia in Logan County of said State. The Issuer operates the System in Logan, Lincoln, Mingo and Wyoming Counties of said State. The governing body of the Issuer is its Public Service Board, consisting

of three duly appointed, qualified and acting members, whose names and dates of commencement and termination of their current terms are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
James R. Jeffrey	January 2002	January 2008
Mike Stone	October 2001	October 2007
Ben F. Lowe, Jr.	January 2002	January 2008

The duly elected or appointed officers of the Board for 2005 are as follows:

James R. Jeffrey	-	Chairperson
Mike Stone	-	Secretary
Ben F. Lowe, Jr.	-	Treasurer

The duly appointed and acting attorney for the Issuer is James A. Walker, Esquire, of Logan, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land, rights-of-way and easements necessary for the acquisition and 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 Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds.

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

11. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability insurance, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business

interruption insurance, where applicable, in accordance with the Resolution and the Loan Agreement. All insurance for the System required by the Resolution and the Loan Agreement are in full force and effect.

12. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statements of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

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

14. BOND PROCEEDS: On the date hereof, the Issuer received the sum of $105,885 from the Authority and the Council, being a portion of the principal amount of the Series 2005 A Bonds. The balance of the principal amount of the Series 2005 A Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

15. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. VERIFICATION OF SCHEDULE: The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, 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 of the Bonds.

17. GRANTS: As of the date hereof, the grant from the Council in the amount of $460,000 and the grant from the Appalachian Regional Commission in the amount of $760,000 are committed for the Project and in full force and effect.

18. WETLANDS COVENANT: The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

19. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

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

WITNESS our signatures and the official corporate seal of Logan County Public Service District as of the date first written above.

[SEAL]

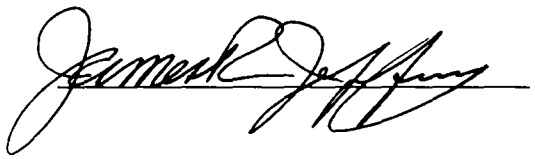
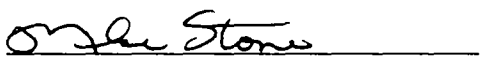
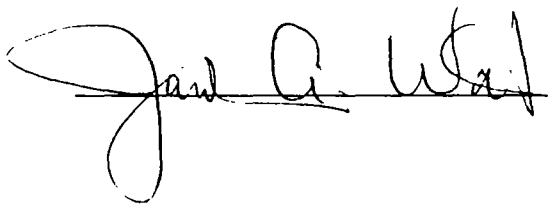
Signature	Official Title
	Chairperson
	Secretary
	Attorney

EXHIBIT A

See Specimen Bond (Tab No. 14).

04/15/05
001210/00323

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.2

CERTIFICATE AS TO USE OF PROCEEDS

On this 27th day of April, 2005, the undersigned Chairperson of the Public Service Board of Logan County Public Service District in Logan, Lincoln, Mingo and Wyoming Counties, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $923,245 Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, dated April 27, 2005 (the "Bonds" or the "Series 2005 A Bonds"), hereby certify as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Bond Resolution duly adopted by the Issuer on April 26, 2005 (the "Bond Resolution"), authorizing the Bonds.

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

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on April 27, 2005, the date on which the Bonds are being physically delivered in exchange for a portion of the principal amount of the Bonds, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Bond Resolution pursuant to which the Bonds are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Infrastructure and Jobs Development Council (the "Council"), as the case may be, from which the proceeds of the Bonds are derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Bonds were sold on April 27, 2005, to the Authority, pursuant to a loan agreement dated April 27, 2005, by and between the Issuer and the Authority, on behalf of the Council, for an aggregate purchase price of $923,245 (100% of par), at which time, the Issuer received the sum of $105,885 from the Authority and the Council, being the first advance of the principal amount of the Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer as acquisition and construction of the Project progresses.

6. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) paying in full the entire outstanding principal of and all accrued interest on the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund) (the "Notes"); (ii) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (iii) paying certain costs of issuance of the Bonds and related costs.

7. The Issuer shall, on the date hereof or immediately hereafter, enter into agreements which require the Issuer to expend at least 5% of the net sale proceeds of the Bonds for the acquisition and construction of the Project, constituting a substantial binding commitment, or has already done so. The acquisition and construction of the Project and the allocation of the net sale proceeds of the Bonds to expenditures of the Project shall commence immediately and shall proceed with due diligence to completion, and with the exception of proceeds deposited in the Series 2005 A Bonds Reserve Account, if any, all of the proceeds from the sale of the Bonds, together with any investment earnings thereon, will be expended for payment of costs of the Project on or before April, 2006. The acquisition and construction of the Project is expected to be completed by December, 2005.

8. The total cost of the Project is estimated at $2,143,245. Sources and uses of funds for the Project are as follows:

SOURCES

Series 2005 A Bonds Proceeds	$923,245
Council Grant	$460,000
Appalachian Regional Commission Grant	$760,000
Total Sources	$2,143,245

USES

Costs of Project	$2,082,839
Payment of the Notes	$ 44,406
Costs of Issuance	$ 16,000
Total Uses	$2,143,245

9. Pursuant to Article V of the Bond Resolution, the following special funds or accounts have been created or continued:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 2005 A Bonds Construction Trust Fund;

(4) Series 2005 A Bonds Sinking Fund; and

(5) Series 2005 A Bonds Reserve Account.

10. Pursuant to Article VI of the Bond Resolution, the proceeds of the Bonds will be deposited as follows:

(1) Bond proceeds in the amount of $44,406 will be deposited with the Commission, which together with $164 in the Notes Payment Fund held by the Commission, shall be sufficient to pay in full the entire outstanding principal of and all accrued interest and administrative fees on the Notes.

(2) Bond proceeds in the amount of $-0- will be deposited in the Series 2005 A Bonds Reserve Account.

(3) The balance of the proceeds of the Bonds will be deposited in the Series 2005 A Bonds Construction Trust Fund as received from time to time and applied solely to payment of costs of the Project, including costs of issuance of the Bonds and related costs, and for no other purpose.

Prior to expenditure, the proceeds of the Bonds in the Series 2005 A Bonds Construction Trust Fund will be invested at a yield not to exceed the yield on the Council's bonds, the proceeds of which were used to make the loan to the Issuer.

11. Moneys held in the Series 2005 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2005 A Bonds Reserve Account (if fully funded) will be withdrawn therefrom and deposited into the Series 2005 A Bonds Construction Trust Fund during construction of the Project, and following completion of the Project, will be deposited in the Revenue Fund, and such amounts will be applied as set forth in the Bond Resolution.

12. Work with respect to the acquisition and construction of the Project will proceed with due diligence to completion. The acquisition and construction of the Project is expected to be completed within 8 months of the date hereof.

13. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

14. With the exception of the amount deposited in the Series 2005 A Bonds Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 12 months from the date of issuance thereof.

15. The Issuer does not expect to sell or otherwise dispose of the Project in whole or in part prior to the last maturity date of the Bonds.

16. The amount designated as costs of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

17. All property financed with the proceeds of the Bonds will be owned and held by (or on behalf of) a qualified governmental unit.

18. No proceeds of the Bonds will be used, directly or indirectly, in any trade or business carried on by any person who is not a governmental unit.

19. The proceeds of the Bonds will not exceed the amount necessary for the purposes of the issue. The Issuer covenants that it shall maintain thorough and accurate accounting records, in conformance with generally accepted accounting principles, relative to the proceeds of the Bonds so that use of the proceeds of the Bonds can be accounted for.

20. The Issuer shall use the Bond proceeds solely for the costs of the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

21. The Bonds are not federally guaranteed.

22. The Issuer has retained the right to amend the Bond Resolution authorizing the issuance of the Bonds if such amendment is necessary to assure that the Bonds remain governmental or public purpose bonds.

23. The Issuer has either (a) funded the Series 2005 A Bonds Reserve Account at 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 with the proceeds of the Bonds, or (b) created the Series 2005 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2005 A Bonds Reserve Account hold 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 Series 2005 A Bonds Reserve Account and the Series 2005 A Bonds Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

24. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds, (b) are to be sold pursuant to a common plan of financing together with the Bonds and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds.

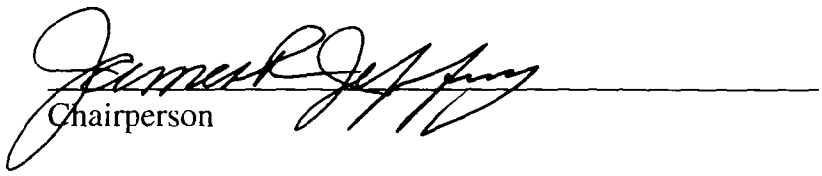
25. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

26. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds, rebates and rebate calculations.

27. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT



Chairperson

04/14/05
001210/00323

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 27th day of April, 2005, the undersigned duly appointed Secretary of Logan County Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the "Board") of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Orders of The County Commission of Logan County Creating and Enlarging the Issuer.

2. Orders of The County Commission of Logan County Appointing the Members of the Board.

3. Oaths of Office of the Board Members.

4. Rules of Procedure.

5. Minutes of Current Year Organizational Meeting.

6. Public Service Commission Order.

7. Infrastructure Council Approval Letter.

8. Infrastructure Council Loan Agreement.

9. Bond Resolution.

10. Supplemental Resolution.

11. Minutes of Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.

12. Affidavits of Publication regarding Notice of Borrowing and Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.

13. WDA Consent to Issuance of Bonds.

14. USDA Consent to Issuance of Bonds.

15. Environmental Health Services Permit.

16. Evidence of Insurance.

17. Infrastructure Council Grant Agreement.

18. ARC Grant Letter.

19. Receipt of Payment of Notes.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

Secretary

04/04/05
001210/00323

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF CONSULTING ENGINEER

On this 27th day of April, 2005, we, C. Dean Upton, Registered Professional Engineer, West Virginia License No. 7829, and James R. Bolton, Registered Professional Engineer, West Virginia License No. 8940, of Stafford Consultants, Incorporated, Princeton, West Virginia, hereby certify as follows:

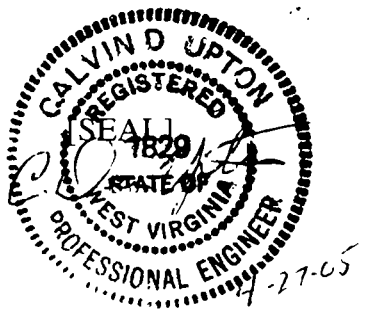
1. Stafford Consultants, Incorporated, is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing public water facilities (the "System") of Logan County Public Service District (the "Issuer"), to be constructed primarily in Logan 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 used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on April 26, 2005, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated April 27, 2005 (the "Loan Agreement").

2. The Bonds are being issued for the purposes of (i) paying in full the entire outstanding principal of and all interest and administrative fees on the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund); (ii) paying a portion of the costs of acquisition and construction of the Project; and (iii) paying certain costs of issuance and related costs.

3. To the best of our 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 Stafford Consultants, Incorporated, and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and when constructed, in our professional opinion, has an anticipated useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A; (iv) the successful bidders acknowledged receipt of all addenda to the original

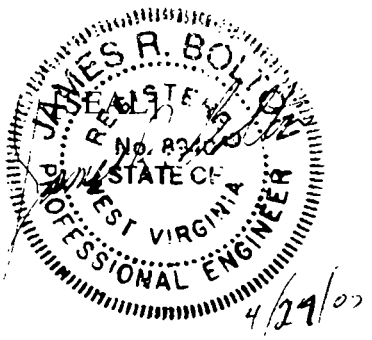
bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the West Virginia Bureau for Public Health and the bid forms provided to the bidders contain the critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained the following 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 the operation of the System, including: (a) the orders of the Public Service Commission of West Virginia entered on June 16, 2004, and April 5, 2005, in Case No. 04-0575-PWD-CN, (b) the West Virginia Office of Environmental Health Services Construction Permit No. 15,502, (c) the Corps of Engineers Nationwide Permit (404), (d) the West Virginia Department of Environmental Protection 401 Certification and General NPDES Permit No. WV 0115924, and (e) the West Virginia Department of Highways Permit; and (ix) the net proceeds of the Bonds, together with all moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the Council.

WITNESS our signatures and seals as of the date first written above.



STAFFORD CONSULTANTS, INCORPORATED

C. Dean Upton, P.E.
West Virginia License No. 7829



James R. Bolton, P.E.
West Virginia License No. 8940

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WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

SCHEDULE B

LOGAN COUNTY PUBLIC SERVICE DISTRICT

ROCKY/CANEY BRANCH WATER PROJECT

FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING

A. Cost of Project	Total	ARC Grant	WVIJDC Grant/Loan
1. Construction (Based on actual bids)			
a. Contract 1	$1,576,841	$760,000	$816,841
b. Contract 2	$212,250	$0	$212,250
2. Engineering Fees			
a.Design (IJDC Design Loan Payoff)*	$44,570	$0	$44,570
b.Design (Other)	$8,375	$0	$8,375
c.Construction Engineering	$37,200	$0	$37,200
d. Special Engineering	$24,550	$0	$24,550
e. Inspection	$75,000	$0	$75,000
3. Legal			
a. Project Legal Services	$5,000	$0	$5,000
b. PSC Legal Services	$0	$0	$0
c. Property Acquisition Legal Services	$10,000	$0	$10,000
4. Administration	$10,000	$0	$10,000
5. Sites and Other Lands	$10,000	$0	$10,000
6. Permits	$18,000	$0	$18,000
7. Accountant	$5,000	$0	$5,000
8. Contingency	$89,459	$0	$89,459
9. Total Lines 1 Through 8	$2,126,245	$760,000	$1,366,245
B. Sources of Funds			
10. ARC Grant	$760,000	$760,000	
11. IJDC Grant	$460,000		$460,000
12. Net Proceeds Required from Bond Issue	$906,245		$906,245
(Line 9 minus Lines 10 & 11)			
C. Cost of Financing			
13. Other Costs			
a. Bond Counsel	$16,000		$16,000
b. Accountant	$1,000		$1,000
c. Capitalized Interest	$0		$0
d. Registrar Fee	$0		$0
14. Total Cost of Financing	$17,000		$17,000
(Lines 13a Through 13d)			
15. Size of Bond Issue	$923,245		$923,245
(Line 12 Plus Line 14)			

GOVERNMENTAL AGENCY

DATE: 4/26/05

CONSULTING ENGINEER

DATE: 4/26/05

* Original Design Loan was $45,675

April 27, 2005

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Logan County Public Service District
Monaville, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the water rates of Logan County Public Service District (the "Issuer"), as approved by the order of the Public Service Commission of West Virginia (the "PSC") entered December 8, 2004, in Case No. 03-2015-PWD-30B, and the projected operating expenses and anticipated customer usage provided by Stafford Consultants Incorporated, the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the water facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Issuer's Water Revenue Bonds (Cow Creek Project), Series 1996 B; Water Revenue Bonds (Whitman Creek Project), Series 1997 A; Water Revenue Bonds (Harts Creek Project), Series 1997 B; Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project – West Virginia Infrastructure and Jobs Development Council), Series 1998 A; Water Revenue Bonds (Mill Creek Project – West Virginia Infrastructure and Jobs Development Council), Series 1999 A; Water Revenue Bonds (Crawley Creek/Chief Logan Project – West Virginia Infrastructure and Jobs Development Council), Series 1999 C; Water Revenue Bonds (Enaloc Project – West Virginia Water Development Authority), Series 1999 D; Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority); Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund); Water Revenue Bonds, Series 2002 A (United States Department of Agriculture); Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund); Water Refunding Revenue Bonds, Series 2003 A; and Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds"); and Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) (the "Series 2005 A Bonds").

Michael D. Griffith, CPA
michaelgriffithcpa@verizon.net
950 Little Coal River Road Alum Creek, WV 25003
Phone: (304) 756.3600 Facsimile: (304) 756.2911

It is further my opinion that (i) the Net Revenues for the fiscal year following the year in which the Series 2005 A Bonds are to be issued will be at least 120% of the average annual debt service requirements on the Prior Bonds and the Series 2005 A Bonds; and (ii) the Net revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2005 A Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2005 A Bonds, will not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for principal of and interest on the Prior Bonds and the Series 2005 A Bonds.

Very truly yours,

Michael D. Griffith, CPA

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR BONDS

The undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On this 27th day of April, 2005, in Charleston, West Virginia, the Authority received the Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of Logan County Public Service District (the "Issuer"), in the principal amount of $923,245, numbered AR-1, issued in the form of one bond, fully registered to the Authority, and dated April 27, 2005 (the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 27th day of April, 2005.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B Meadows
Authorized Representative

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001210/00323

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LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.7

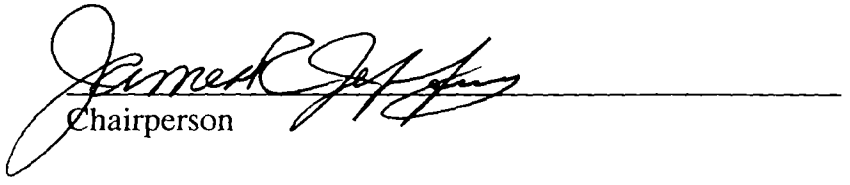
RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Logan County Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On this 27th day of April, 2005, the Issuer received from the West Virginia Water Development Authority (the "Authority"), as the original purchaser of the $923,245 Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated April 27, 2005 (the "Series 2005 A Bonds"), the sum of $105,885, being a portion of the principal amount of the Series 2005 A Bonds. The Issuer understands that the remaining proceeds of the Series 2005 A Bonds will be advanced to the Issuer by the Authority and the West Virginia Infrastructure and Jobs Development Council from time to time as construction proceeds to completion.

WITNESS my signature on this 27th day of April, 2005.

LOGAN COUNTY PUBLIC SERVICE DISTRICT



Chairperson

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LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.8

REQUEST AND AUTHORIZATION TO
AUTHENTICATE, REGISTER AND DELIVER BONDS

United Bank, Inc.
Charleston, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $923,245 Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the form of one bond, numbered AR-1, dated April 27, 2005 (the "Bonds"), of Logan County Public Service District (the "Issuer"), authorized to be issued under and pursuant to a Bond Resolution and a Supplemental Resolution duly adopted by the Issuer on April 26, 2005.

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

WITNESS my signature on this 27th day of April, 2005.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

Chairperson

(SEAL)

Attest:

Secretary

04/21/05
001210/00323

M0421607.1

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 27th day of April, 2005, by and between LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public corporation (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $923,245 Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated April 27, 2005 (the "Bonds"), in the form of one bond, in fully registered form, pursuant to a Bond Resolution and a Supplemental Resolution adopted by the Issuer on April 26, 2005 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the

Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation heretofore agreed by the parties and set forth in the attached invoice.

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

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

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

ISSUER:
Logan County Public Service District
P.O. Box 506
Logan, WV 25601
Attention: Chairperson

REGISTRAR:
United Bank, Inc.
500 Virginia Street East
Charleston, WV 25301
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

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

IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

Chairperson

UNITED BANK, INC.

Authorized Officer

EXHIBIT A

See Bond Resolution (Tab No. 10)

See Supplemental Resolution (Tab No. 11)

04/21/05
001210/00323

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.10

CERTIFICATE OF REGISTRATION OF BONDS

UNITED BANK, INC., Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of Logan County Public Service District (the "Issuer"), dated April 27, 2005, in the principal amount of $923,245, numbered AR-1, was registered as to principal only, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 27th day of April, 2005.

UNITED BANK, INC., as Registrar

Authorized Officer

04/21/05
001210/00323

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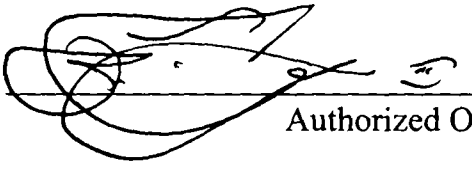
LOGAN COUNTY PUBLIC SERVICE DISTRICT 3.11(A)
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

BANK ONE, a division of JPMORGAN CHASE BANK, N.A., Logan, West Virginia, hereby accepts appointment as Depository Bank for the Series 2005 A Bonds Construction Trust Fund and the Renewal and Replacement Fund (collectively, the "Funds") in connection with a Bond Resolution and a Supplemental Resolution adopted by Logan County Public Service District (the "Issuer") on April 26, 2005 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the aggregate principal amount of $923,245, dated April 27, 2005, and agrees to serve as Depository Bank for the Funds, all as set forth in the Resolution.

WITNESS my signature on this 27th day of April, 2005.

BANK ONE, a division of JPMORGAN CHASE BANK, N.A.



Authorized Officer

04/15/05
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28A

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.11(B)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

LOGAN BANK & TRUST COMPANY, Logan, West Virginia, hereby accepts appointment as Depository Bank for the Revenue Fund in connection with a Bond Resolution and a Supplemental Resolution adopted by Logan County Public Service District (the "Issuer") on April 26, 2005 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the aggregate principal amount of $923,245, dated April 27, 2005, and agrees to serve as Depository Bank for the Revenue Fund, all as set forth in the Resolution.

WITNESS my signature on this 27th day of April, 2005.

LOGAN BANK & TRUST COMPANY

Mark A. Manchin Vice Pres. /CFO
Authorized Officer

04/04/05
001210/00323

M0421617.1

WEST VIRGINIA MUNICIPAL BOND COMMISSION
Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

NEW ISSUE REPORT FORM
Date of Report: April 27, 2005

ISSUE: Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)

ADDRESS: P.O. Box 506, Logan, WV 25601 COUNTY: Logan

PURPOSE OF ISSUE: New Money X
Refunding X Refunds issue(s) dated: May 10, 2002

ISSUE DATE: April 27, 2005 CLOSING DATE: April 27, 2005

ISSUE AMOUNT: $923,245 RATE: 0%

1st DEBT SERVICE DUE: March 1, 2007 1st PRINCIPAL DUE: March 1, 2007

1st DEBT SERVICE AMOUNT: $6,034.29 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: Bank One, a division of JPMorgan Chase Bank, N.A.
Contact Person: Barbara Meade
Phone: (304) 752-1023

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: Rick Roberts
Position: Managing Engineer
Phone: (304) 946-2641

OTHER: WV Infrastructure & Jobs Development Council
Contact Person: Katy Mallory, P.E.
Function: Executive Secretary
Phone: (304) 558-4607

DEPOSITS TO MBC AT CLOSE:

		Accrued Interest:	$
		Capitalized Interest:	$
By X Wire		Reserve Account:	$
Check	X	Other:	$44,406 (See Notes Below)

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By Wire		To Escrow Trustee:	$
Check		To Issuer:	$
IGT		To Cons. Invest. Fund	$
		To Other:	$

NOTES: To pay in full Logan County Public Service District's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund).

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

04/15/05
001210/00323

M0421620.1

State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

815 QUARRIER STREET, SUITE 418 CHARLESTON, WEST VIRGINIA 25301-2616
TELEPHONE 304-558-2981

(Water) **PERMIT**

PROJECT: Caney Branch and Rocky Branch Water Line Extensions PERMIT NO.: 15,502

LOCATION: near Godby Heights COUNTY: Logan DATE: 1-16-2003

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Logan County Public Service District
Post Office Box 506
Logan, West Virginia 25601

is hereby granted approval to: install approximately 25,565 LF of 8", 5,930 LF of 6" and 5,680 LF of 2" water line; one (1) 70 G.P.M. duplex water booster station; one (1) 115,000 gallon water storage tank; and all necessary valves, controls and appurtenances, with water to be provided by the Logan County Public Service District Mill Creek water system.

Facilities are to serve approximately 170 customers in the Caney Branch and Rocky Branch areas of the Logan County Public Service District.

NOTE: **This permit is contingent upon: 1) All new water line and the water storage tank being disinfected, flushed and bacteriologically tested, prior to use; 2) Maintaining a minimum ten (10) feet horizontal separation between sewer and water lines and a minimum 18" vertical separation between crossing sewer water lines, with the water lines above the sewer line; and 3) The new water storage tank being enclosed by a minimum six (6) feet high fence with a locking gate.**

The Environmental Engineering Division of the Beckley District Office (304) 256-6666 is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR

William S. Herold, Jr., P.E., Assistant Manager
Infrastructure and Capacity Development
Environmental Engineering Division

WSH:sec

pc: Stafford Consultants, Inc.
James W. Ellars, P.E., PSC-Engineering Division
Amy Swann, PSC
Logan County Health Department
OEHS-EED Beckley District Office

WV Workers Compensation Commission
Employer Service
PO Box 3064
Charleston, WV 25334-3064
1-888-4WVCOMP or (304) 926-3400
Fax Number (304) 926-5363

CERTIFICATE REQUESTOR:
LOGAN COUNTY PUBLIC SERVICE DISTRICT
201 1/2 STRATTON STREET SUITE 507
LOGAN WV 25601

NAME AND ADDRESS OF INSURED:
LOGAN COUNTY PUBLIC SERVICE DISTRICT
201 1/2 STRATTON STREET SUITE 507
LOGAN WV 25601

CERTIFICATE OF INSURANCE

THIS IS TO CERTIFY, that the following policy providing Workers' Compensation coverage is in force for the dates indicated below. As of the effective date indicated, this account of the named insured employer is in good standing with the Commission. This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy below.

This policy provides coverage for the above named employer's responsibilities under the Workers' Compensation Law of the State of West Virginia.

If the policy is canceled before the expiration date, the West Virginia Workers' Compensation Commission will endeavor to mail a written notice to the certificate holder within 30 days of cancellation. Failure to mail the notice shall impose no obligation or liability of any kind upon the West Virginia Workers' Compensation Commission.

POLICY/BUSINESS#: 79003524 - 101 **CERTIFICATE ISSUED:** April 25, 2005

EFFECTIVE DATES OF POLICY TERM:
FROM: April 1, 2005 **THRU:** May 31, 2005

POLICY COVERAGE DESCRIPTION:
7520 Waterwork operations and public service districts.

COVERAGE IN FORCE FOR SOLE PROPRIETOR, PARTNER, AND/OR CORPORATE OFFICER:
NONE.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/24/2004

PRODUCER
Bray & Oakley Insurance Agency, Inc.
PO Box 386
Logan, WV 25601

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
Logan County PSD
PO Box 506
Logan, WV 25601

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: National Union Fire Insurance Co. of Pittsburgh	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER [ ] POLICY [ ] PRO-JECT [ ] LOC		July 1, 2004	July 1, 2005	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG Fire Legal	$ 1,000,000 $ $ Not Applicable $ $ No Aggregate $ No Aggregate 100,000
A		AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS		July 1, 2004	July 1, 2005	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A		GARAGE LIABILITY [X] ANY AUTO		July 1, 2004	July 1, 2005	AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ 1,000,000 $ 1,000,000 $ Not Applicable
		EXCESS/UMBRELLA LIABILITY [ ] OCCUR [ ] CLAIMS MADE [ ] DEDUCTIBLE [ ] RETENTION $				EACH OCCURRENCE AGGREGATE	$ $
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				[ ] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ $ $
A		OTHER Automobile Physical Damage		July 1, 2004	July 1, 2005	ACV Less $1,000 deductible	
A		Stop Gap		July 1, 2004	July 1, 2005	1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

A $2500 per occurence deductible applies to all liability coverage. This certificate holder is an additional insured.

CERTIFICATE HOLDER

WV Water Development Authority
180 Association Drive
Charleston, WV 25311-1217

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED AGENT

AUTHORIZED REPRESENTATIVE

© ACORD CORPORATION 1988

ACORD™ CERTIFICATE OF PROPERTY INSURANCE

DATE 9/24/2004

PRODUCER
Bray & Oakley Insurance Agency, Inc.
Po Box 386
Logan, WV 25601

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY A: Westchester Fire Insurance Company

INSURED
Logan County PSD
Po Box 506
Logan, WV 25601

COMPANY B: The Hartford Steam Boiler Inspection and Insurance Co.

COMPANY C:

COMPANY D:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	COVERED PROPERTY	LIMITS
A	[X] PROPERTY		July 1, 2004	July 1, 2005	[ ] BUILDING	$
	CAUSES OF LOSS				[ ] PERSONAL PROPERTY	$
	[ ] BASIC				[X] BUSINESS INCOME	$ 12 Months
	[ ] BROAD				[X] EXTRA EXPENSE	$ 12 Months
	[X] SPECIAL Manuscript				[ ] BLANKET BUILDING	$
	[ ] EARTHQUAKE				[ ] BLANKET PERS PROP	$
	[ ] FLOOD				[X] BLANKET BLDG & PP	$ *
						$
						$
	[ ] INLAND MARINE		July 1, 2004	July 1, 2005		$
	TYPE OF POLICY					$
						$
	CAUSES OF LOSS					$
	[ ] NAMED PERILS					$
	[ ] OTHER					$
A	[X] CRIME		July 1, 2004	July 1, 2005		$ 2,000,000.00
	TYPE OF POLICY					$
	Employee Dishonesty					$
B	[X] BOILER & MACHINERY		July 1, 2004	July 1, 2005		$
						$ 1,000,000.00
	[ ] OTHER					

LOCATION OF PREMISES/DESCRIPTION OF PROPERTY

This insured is listed as an additional insured.

SPECIAL CONDITIONS/OTHER COVERAGES

* Coverage is written on replacement cost subject to values reported to the Board of Risk and Insurance Managment.
* A $2500 per occurence deductible applies to each loss.

CERTIFICATE HOLDER

WV Water Development Authority
180 Association Drive
Charleston, WV 25311-1217

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED AGENT

AUTHORIZED REPRESENTATIVE

ACORD 24 (1/95)

© ACORD CORPORATION 1995

IC-2
(7/30/01)

GRANT AGREEMENT

This Grant Agreement entered into by and between the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority"), on behalf of the WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL (the "Council") and LOGAN COUNTY PUBLIC SERVICE DISTRICT (the "Governmental Agency").

RECITALS

WHEREAS, the Council has authorized the Authority to make a grant to the Governmental Agency in the amount not to exceed $460,000 (the "Grant") for the purposes of the design, acquisition or construction of a project for which a preliminary application has been submitted and approved by the Council;

WHEREAS, the Governmental Agency wishes to accept the Grant upon such terms and conditions as are hereinafter set forth for the purposes of designing, acquiring or constructing the project described in Exhibit A attached hereto and incorporated herein by reference (the "Project");

WHEREAS, this Grant Agreement sets forth the Council, the Authority and the Governmental Agency's understandings and agreements with regard to the Grant.

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

TERMS

1. Prior to the distribution of the Grant, the Governmental Agency shall provide the Authority with a Project budget and an anticipated monthly draw schedule reflecting the receipt dates and amounts from other funding sources.

2. The Authority shall advance the Council's share of the Project costs from the Grant from time to time upon receipt of a requisition evidencing the costs incurred, which requisition must be satisfactory to the Authority.

3. The monthly requisition will also set forth (i) the amounts requested for that requisition period from all other funding agencies, and (ii) the amounts advanced for the Project to date from all other funding agencies.

4. The Governmental Agency will use the proceeds of the Grant only for the purposes specifically set forth in Exhibit A.

5. The Governmental Agency shall comply with and is bound by the Council's rules set forth as Title 167, Series 1 and more particularly Section 5.9 with respect to the sale of the Project.

6. The Governmental Agency acknowledges that the Grant may be reduced, from time to time, to reflect actual Project costs and availability of other funding.

7. The Governmental Agency shall list the Grant provided by the Authority and the Council in any press release, publication, program bulletin, sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project.

8. This Grant Agreement shall be governed by the laws of the State of West Virginia.

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

LOGAN COUNTY PUBLIC
SERVICE DISTRICT

By: _____
Its: Chairperson
Date: April 27, 2005

(SEAL)

Attest:

_____
Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

By: _____
Its: Director
Date: April 27, 2005

(SEAL)

Attest:

_____
Its: Secretary-Treasurer

000832/00466
04/04/05

Exhibit A

Project Description

The Project consists of construction of a water extension to serve approximately 167 new residential and small commercial customers in the Rocky Branch, Caney Branch and surrounding areas of Logan County, including construction of approximately 38,000 feet of 8-inch or smaller water lines, one 70-gallon per minute water booster station, one 115,000 gallon nominal capacity water storage tank and various valves and hydrants, together with all appurtenant facilities.

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

BOB WISE
GOVERNOR

February 20, 2004

Mr. James Jeffrey
Chairman
Logan County Public Service District
Post Office Box 506
Logan, West Virginia 25601

Dear Mr. Jeffrey:

I am pleased to inform you that I have approved the Logan County Public Service District project application in the amount of $760,000 for Appalachian Regional Commission assistance, and I am forwarding the project for the Commission's review.

Funding will extend water service to approximately 167 residential and commercial customers on Rocky Branch, Caney Branch, and surrounding areas in Logan County. The project will provide necessary infrastructure for further residential and commercial development along Appalachian Highway Corridor G.

You must not proceed with this project until you have been officially notified that it has been approved by the Appalachian Regional Commission.

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

Very truly yours,

Bob Wise
Governor

BW:tsh

cc: Region II Planning and Development Council
Logan County Commission
Rosemary Christian, USDA/RUS

WATER OR WASTE SYSTEM GRANT AGREEMENT

UNITED STATES DEPARTMENT OF AGRICULTURE

RURAL UTILITIES SERVICE

THIS AGREEMENT dated August 17, 2004 between

Logan County Public Service District

a public corporation organized and operating under

Chapter 16 Article 13A, West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under jurisdiction at an estimated cost of **$ 1,895,000.00** and has duly authorized the undertaking of such project.

Grantee is able to finance not more than **$ 1,135,000.00** of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of **$ 1,135,000.00** has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed **$ 760,000.00** or **40.11%** percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to

* ~~Section 306(a) of the Consolidated Farm and Rural Development Act~~ the purpose only of defraying a part not to exceed **40.11%** percent of the development costs, as defined by applicable Rural Utilities Service Instructions.

* The Appalachian Regional Commission of 1965, as amended.

GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, ~~whether for one or more classes~~ as approved by the West Virginia Public Service Commission. ~~of service adopted by resolution dated xxxxxxxxxxxxxxxxxxxxxxxxx~~ , as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.
[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

The project consists of approximately 37,865 linear feet of 8-inch and smaller diameter water main, one 70 gallons per minute booster station, one 115,000 gallons water storage tank, 26 fire hydrants, valves, individual customer meters and other related appurtenances.

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A Grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.
[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than $5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of $5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds, for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated an fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment (use continuation sheets as necessary).

All tangible items together with appurtenant furnishings and equipment, including all accessions, repairs, and replacements associated with the proposed facility.

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland ``Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of $100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:
[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/97]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term ``facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed **$ 760,000.00** which it will advance to Grantee to meet not to exceed **40.1%** percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph 1 above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Chairman _____

and attested and its corporate seal affixed by its duly authorized

Secretary _____

Attest:

_____

By: _____
Mike Stone

(Title) **Secretary** _____

By: _____
James R. Jeffrey

(Title) **Chairman** _____

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By: _____

TERESA A. MILLER, Rural Development Specialist (Title)

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.17

RECEIPT OF PAYMENT OF NOTES

On this 27th day of April, 2005, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund) (the "Notes"), of Logan County Public Service District (the "Issuer"), dated May 10, 2002, in the original aggregate principal amount of $45,675, bearing interest at the rate of 3% per annum, hereby certifies that it has received the sum of $44,569.19 from the Issuer and that such sum is sufficient to pay the entire outstanding principal amount of the Notes and all interest accrued thereon to the date hereof and discharge the liens, pledges and encumbrances securing the Notes.

WITNESS my signature on this 27th day of April, 2005.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Barbara B. Meadows
Authorized Representative

04/04/05
001210/00323

M0421622.1

CLOSING MEMORANDUM

To: **Barbara Meadows**
Katy Mallory
Sara Boardman
Rick Roberts
Samme Gee

From: **Francesca Tan**

Date: **April 27, 2005**

Re: **Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)**

---

1. DISBURSEMENTS TO DISTRICT

Payor:	West Virginia Infrastructure Fund
Source:	Series 2005 A Bonds Proceeds
Amount:	$61,479
Date:	April 27, 2005
Form:	Wire Transfer
Payee:	Logan County Public Service District
Bank:	Bank One, a division of JPMorgan Chase Bank, N.A.
Routing No.:	044000037
Account No.:	651733420
Account:	Series 2005 A Bonds Construction Trust Fund

2. DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

Payor:	Infrastructure Fund on behalf of District
Source:	Series 2005 A Bonds Proceeds
Amount:	$44,406
Date:	April 27, 2005
Form:	Wire Transfer
Payee:	West Virginia Municipal Bond Commission
Bank:	Branch Banking & Trust Company, Charleston, West Virginia
Routing No.:	051503394
Account No.:	5270517317

Contact:	West Virginia State Treasurer for West Virginia Municipal Bond Commission
Account:	Notes Payment Fund, which together with $164 in such Fund, shall be sufficient to pay in full the Logan County Public Service District Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund), dated May 10, 2002.

04/15/05
001210/00323

JACKSONKELLY
ATTORNEYS AT LAW PLLC

SUITE 500, 150 CLAY STREET • PO BOX 619 • MORGANTOWN, WV 26507 • TELEPHONE: 304-284-4100 • TELECOPIER: 304-284-4140
www.jacksonkelly.com

April 27, 2005

Logan County Public Service District
Monaville, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We have served as bond counsel to Logan County Public Service District (the "Issuer") in connection with the issuance of its Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds, dated April 27, 2005, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $923,245, in the form of one bond, registered as to principal only to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing March 1, 2007, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16,

Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) paying in full the entire outstanding principal of and all accrued interest on the Issuer's Waterworks System Design Notes, Series 2002 A (West Virginia Infrastructure Fund); (ii) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (iii) paying certain costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on April 26, 2005, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 26, 2005 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued, and the Loan Agreement is entered into. 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 Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

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

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

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

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer, without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and a pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Prior Bonds, all in accordance with the terms of the Bonds and the Resolution.

6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

7. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,

Jackson Kelly PLLC

04/04/05
001210/00323

M0421646.1

James A. Walker

Counselor and Attorney at Law

218 Stratton Street
Post Office Box 358
Logan, West Virginia 25601

Phone (304) 752-0757
Fax (304) 752-0758

April 27, 2005

Logan County Public Service District
Monaville, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Jackson Kelly, PLLC
Charleston, West Virginia 25322

RE: Logan County Public Service District Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

I am Counsel to the Logan County Public Service District (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly, PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (the "Bonds"), a loan agreement for the Bonds, dated April 27, 2005, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on April 26, 2005, as supplemented by a Supplemental Resolution adopted April 26, 2005, (collectively, the "Resolution"), Orders of the County Commission of Logan County relating to the Issuer and the appointment of members of the Board, and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Loan Agreement and the Resolution when used herein.

I am of the opinion that:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

4. The Resolution has been duly adopted by the Board and is in full force and effect.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transactions contemplated by the Bonds, the Loan Agreement and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, Court Order or consent decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, Orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for the use of the System, including, without limitation, all requisite permits, approvals, Orders and certificates from The County Commission of Logan County, the West Virginia Bureau for Public Health, the Council and the Public Service Commission of West Virginia (the "PSC"). The Issuer has received the PSC Orders entered on December 8,

2004, in Case No. 03-2015-PWD-30B, approving the rates for the System. The Issuer has taken all actions required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the PSC Orders entered on June 16, 2004, and April 5, 2005, in Case No. 04-0575-PWD-CN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the June 16, 2004, Order has expired prior to the date hereof without any appeal having been filed. The time for appeal of the April 5, 2005, Order has not expired on the date hereof. However, the parties to such Order have stated that they do not intend to appeal such Order. Both Orders remain in full force and effect.

7. The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed, the costs of the Project, the anticipated user rates and charges and the date that a formal application for a certificate of public convenience and necessity is to be filed with the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia of 1931, as amended, and has duly complied with the provisions thereof.

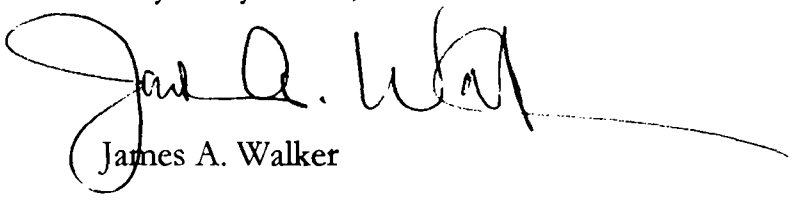
8. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any Court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bonds and the Resolution, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds, the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

9. All successful bidders have made the required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy. Based upon my review of the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project, I am of the opinion that such surety bonds and policies: (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Logan County Public Service District Resolution and the Loan Agreement; and (5) all such

documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very Truly Yours,



James A. Walker

JAW:bgg

James A. Walker

Counselor and Attorney at Law

218 Stratton Street
Post Office Box 358
Logan, West Virginia 25601

Phone (304) 752-0757
Fax (304) 752-0758

April 27, 2005

Logan County Public Service District
Monaville, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Jackson Kelly, PLLC
Charleston, West Virginia

RE: Final Title Opinion For Logan County Public Service District

Ladies and Gentlemen:

I am counsel to the Logan County Public Service District (the "Issuer") in connection with a proposed project to construct certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"). I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the West Virginia Infrastructure and Jobs Development Council for the Project. Please be advised of the following:

1. The Issuer is a duly created and validly existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Bureau for Public Health.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. I have investigated and ascertained the location of, and I am familiar with the legal description of the necessary sites, including easements and/or rights-of-way, required for the Project as set forth in the plans for the Project prepared by Stafford Consultants, the consulting engineers for the Project.

4. I have examined the records on file in the Office of the Clerk of the County Commission of Logan County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights-of-way with the exception of those listed in Paragraph 5, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. The following listed properties are to be acquired by eminent domain and the necessary filings have been made in the Office of the Clerk of the Circuit Court of Logan County, West Virginia, to permit the Issuer a right-of-entry for the purpose of construction, operation and maintenance of the Project on the subject properties. The Issuer's title thereto is defeasible in the event the Issuer does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and my certification is subject to the following pending litigation:

Logan County Public Service District, a political subdivision of the State of West Virginia, Petitioner, v West Virginia Department of Transportation, Division of Highways, Respondent, Civil Action No. 05-C-119. The Order Vesting Defeasible Title was entered April 21, 2005, by Honorable Circuit Judge, Eric H. O'Briant. A copy of said Order is attached hereto.

6. All deeds, easements and rights-of-way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Logan County, West Virginia, to protect the legal title to and interest of the Issuer.

Very Truly Yours,

James A. Walker

JAW:bgg

J. Walker

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

LOGAN COUNTY PUBLIC SERVICE DISTRICT, a political subdivision of the State of West Virginia,

Petitioner,

v.

CIVIL ACTION NO. 05-C-119
PROJECT: ROCKY CANEY

EMINENT DOMAIN

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS,

Respondent.

FILED
2005 APR 21 P 1:52

ORDER VESTING DEFEASIBLE TITLE

This day came the Petitioner, Logan County Public Service District, a political subdivision of the State of West Virginia, by Counsel, James A. Walker, and tendered and asked leave to pay into the Court the sum of Twenty-five Dollars ($25.00) for the booster pump station site sought to be acquired by the Petitioner, pursuant to the terms and provisions of Chapter 54, Article 2, Section 14a of the Code of West Virginia of

1931, as amended, which sum the Petitioner estimates to be the fair market value of the taking of the parcel of property for the booster pump station site sought to be condemned in this proceeding, including the damages, if any, to the residue of the land of the Respondent, beyond the benefits to any such residue by reason of the taking of said parcel of property.

And it appearing to the Court that there has not, as yet, been any report by Condemnation Commissioners or verdict of a jury, and that the Petitioner has not yet entered, taken possession of, appropriated, or used the land sought to be condemned in this proceeding, and it further appearing to the Court that this case is one in which the Petitioner has the lawful right to take private property for the public purpose as stated in the Petition and as defined in West Virginia Code Chapter 54, Article 1, Section 2(e), upon making a just compensation therefor.

It is therefore **ORDERED** and **ADJUDGED** that the Logan County Public Service District, its agents, employees, contractees and subcontractees, be, and they are hereby permitted, under authority of the statutes of West Virginia as pertaining to proceedings in eminent domain, to act at once to enter upon, take possession of, appropriate and use said land sought to be condemned for the purposes as stated in the Petition filed in this cause.

It is further **ORDERED** and **ADJUDGED** that the Logan County Public Service District be, and it is hereby permitted to pay the sum of Twenty-five Dollars ($25.00) for the booster pump station site to the Clerk of this Court to the use of the

owner of said property, which sum will be distributed by said Clerk to the party entitled thereto as directed by further Order of the Court.

It is further **ORDERED** and **ADJUDGED** that the title to the booster pump station site described on the plat of the Rocky/Caney Branch Water Project, a copy of the map of which is attached hereto, be, and the same is hereby vested in the Logan County Public Service District, a political subdivision of the State of West Virginia, subject to the provisions of Chapter 54, Article 2, Section 14a of the Code of West Virginia of 1931, as amended, which title is defeasible until the compensation and any damages, if any, are determined in the condemnation proceeding and the Petitioner has paid any excess amount into Court, and which property is situate in Guyan District, Logan County, West Virginia. The right and property intended to be taken by the Petitioner in this proceeding referred to herein is a parcel of property containing 0.03 acres for the construction, operation, and maintenance of a booster pump station site for the Rocky/Caney Water Project.

It is further **ORDERED** and **ADJUDGED** that a copy of this Order be certified by the Clerk of this Court to the Clerk of the County Commission of Logan County, West Virginia, to be recorded and indexed by said County Clerk in the proper books of Logan County, West Virginia, in the same manner as other similar documents are required to be recorded and indexed, as provided by law, and a certified copy thereof to be submitted to the Logan County Public Service District, a political subdivision of the State of West Virginia, and a copy to be provided to the Respondent herein.

All of which is **ORDERED, ADJUDGED** and **DECREED** accordingly.

ENTERED this 21st day of April, 2005.

Eric W. O'Brien
CIRCUIT JUDGE

RECEIVED & FILED
05 APR 21 P 1:52

JAMES A. WALKER (WV Bar #3901)
ATTORNEY AT LAW
Walker Building
218 Stratton Street
Post Office Box 358
Logan, West Virginia 25601
(304) 752-0757

A COPY TESTE:
ALVIS PORTER, CLERK
BY Claudia
DEPUTY