

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Closing Date: April 9, 2008

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia
WATER DEVELOPMENT AUTHORITY
 180 Association Drive, Charleston, WV 25311-1217
 (304) 558-3612 - (304) 558-0299 (Fax)
 Internet: www.wvwda.org - Email: contact@wvwda.org

PRECLOSING ATTENDANCE LIST

Date April 8, 2008 Time 6:00 p.m. LGA Logan County PSD Program IF

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
SAMMIE GEE	Jackson Kelly PLLC	304 340 1318	304 340 1272	sgae@jacksonkelly.com
Ryan White	Jackson Kelly PLLC	304 340 1283	304 340 1272	rwhite@jacksonkelly.com
Barbara B Meadows	Water Development Authority	304-558-3612	304-558-0299	bmeadows@wvwda.org
CHRIS J ARRETT	Water Development Authority	304-558-3612	304-558-0299	cjarratt@wvwda.org
P. Dean Upton	Stafford Consultants	304 425-9555	425-9557	staffordconsultants@frontier.net

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Rick Roberts Telephone 304.946.2641 E-Mail rick@lcpsd.com
 Address P.O. Box 506, Logan, WV 25601

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

**State of West Virginia
WATER DEVELOPMENT AUTHORITY**

180 Association Drive, Charleston, WV 25311-1217
(304) 558-3612 - (304) 558-0299 (Fax)
Internet: www.wvwda.org - Email: contact@wvwda.org

BOND CLOSING ATTENDANCE LIST

Date April 9, 2008 Time 9:00 a.m. LGA Logan County PSD Program IF

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
MARK E KAUFFELT	WDA	345-1272	345-1280	MKAUFFELT@citynet.net
Samuel L. Gee	Jackson Kelly PLLC	340.1318	340.1272	sgee@jacksonkelly.com
Barbara B Meadows	WDA	558.3612	558.0299	bmeadows@wvwda.org

The Authority requests that the following information concerning the individual who will be responsible for sending Debt Service Payments to the Municipal Bond Commission be provided. (If that individual is in attendance, he/she should also sign above.) Please Print:

Name Rick Roberts Telephone 304.946.2641 E-Mail Rick@LCPD.com

Address P.O. Box 506, Logan, WV 25681

REMINDER: As a participant in this program, the Local Governmental Agency (LGA) agrees and is required to submit annually to the WDA a copy of its audited financial statements and a copy of its adopted budget. Also, pursuant to the Loan Agreement and the NonArbitrage Certificate (both of which are contained in the bond transcript) you are to provide annually to the WDA a rebate calculation certificate or an exception opinion showing whether a rebate amount is due to the US Government under arbitrage requirements in Section 148(f) of the US Internal Revenue Code, 1986, as amended.

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, CHAPTER 31, ARTICLE 15A OF THE 2007 SUPPLEMENT TO THE WEST VIRGINIA CODE, AND HOUSE BILL 4041, PASSED MARCH 8, 2008, AND EFFECTIVE JUNE 6, 2008, AS INDICATED BY THE RECORDS OF THIS OFFICE.



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

April 4, 2008

Betty Ireland

Secretary of State

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND
JOBS DEVELOPMENT COUNCIL

Section

- 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.
- 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-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.
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§ 31-15A-1. Short title

This article shall be known and may be cited as the "West Virginia Infrastructure and Jobs Development Act."

Acts 1994, 1st Ex. Sess., c. 26.

§ 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 of this article;

(e) "Division of environmental protection" means the division of environmental protection established under article one, 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, 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, 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 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 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, 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 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, 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, 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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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, 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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995.

§ 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, 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 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 completion 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.

Acts 1994, 1st Ex. Sess., c. 26.

§ 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 investment 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.

Acts 1994, 1st Ex. Sess., c. 26.

§ 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.

Acts 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 of 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 with 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

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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.

Acts 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, 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, 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, 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 pre-filing 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, 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 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 commissioner'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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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 of article fifteen-b; and (7) all proceeds derived from the sale of bonds issued pursuant to article fifteen-b 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.

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

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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, chapter thirty-one of this code.

(c) To further accomplish the purposes and intent of this article and article fifteen-b 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, 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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995.

Acts 1990, c. 2, abolished the office of commissioner of finance and administration and transferred all duties and powers 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 of this article, upon receipt of one or more recommendations from the council pursuant to section five 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,

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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) 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 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, 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 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 ninety-eight, after transfers required to make the state match for the water and wastewater revolving loan programs pursuant to article two, chapter twenty-two-c and article thirteen-c, 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, article two, chapter one of this code: Provided, however, That infrastructure projects as defined in subsection (1), section two of this article shall 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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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 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

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community and economic development, or its successor, for review, recommendation and approval regarding infrastructure project funding.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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.

Acts 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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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.

Acts 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, 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, 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.

Acts 1994, 1st Ex. Sess., c. 26; Acts 2001, c. 45, eff. 90 days after April 14, 2001.

Historical and Statutory Notes

Acts 2001, c. 45 rewrote this section which as enacted provided:

“(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, chapter twenty-one of this code, as a result of such financing.

“(b) The state and its subdivisions shall, except as provided in this subsection, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, 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. Nothing in this subsection applies to work performed on construction or repair projects not exceeding a total cost of twenty-five thousand dollars by regular full-time employees of the state or its subdivisions, nor shall anything in this subsection prevent stu-

dents enrolled in vocational educational schools from being utilized in the construction or repair projects when such use is a part of the students' training program. Nothing in this subsection applies to emergency repairs to building components and systems: Provided, however, 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. This subsection shall not apply to any situation where the state or a subdivision thereof comes to an agreement with volunteers, or a volunteer group, whereby 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 further, That the total cost of the construction or repair projects does not exceed twenty-five thousand dollars.

“(c) The provisions of subsection (b) of this section shall not apply to privately owned projects or infrastructure projects constructed on lands not owned by the state or a subdivision of the state.”

§ 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, 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, 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, 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, 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, chapter eleven and dedicated for purposes of medicaid and the division of forestry

pursuant to section twenty-a 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 of this chapter.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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, 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 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

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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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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.

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(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 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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

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

(a) The water development authority, subject to such agreements with note-holders 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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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 of this article, and shall be secured in accordance with the provisions of sections seventeen and eighteen of this article.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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

INFRASTRUCTURE & JOBS DEVELOPMENT COUNCIL § 31-15A-24

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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

§ 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.

Acts 1998, c. 180, eff. 90 days after March 14, 1998.

West's
Annotated Code
of West Virginia

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

Chapters 31 to 31E

2007
Cumulative Annual Pocket Part

Replacing 2006 Pocket Part supplementing 2002 Main Volume

Includes laws through the 2007 First Extraordinary Session

THOMSON
WEST

(h) The board shall, without regard to the provisions of civil service laws applicable to officers and employees of the state of West Virginia, appoint any necessary managers, assistant managers, officers, employees, attorneys and agents for the transaction of its business, fix their compensation, define their duties and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed at the discretion of the board. The authority may reimburse any state spending unit for any special expense actually incurred in providing any service or the use of any facility to the authority.

(i) In cases of any vacancy in the office of a voting member, the vacancy shall be filled by the governor. Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

(j) The governor may remove a member in the case of incompetence, neglect of duty, gross immorality or malfeasance in office, and may declare the member's office vacant and appoint a person for the vacancy as provided in other cases of vacancy.

(k) The secretary of the board shall keep a record of the proceedings of the board and perform any other duties determined appropriate by the board. The treasurer shall be custodian of all funds of the authority and shall be bonded in the amount designated by other members of the board.

Acts 1989, c. 54; Acts 2004, c. 88, eff. 90 days after March 13, 2004.

§ 31-15-6. General powers of authority

Notes of Decisions

Loans 1

truck terminal as "industrial development project".
51 W.Va. Op. Atty. Gen. 749 (March 23, 1966) 1966
WL 87471.

1. Loans

West Virginia Industrial Development Authority, has broad discretion; may appraise loan for

§ 31-15-7. Loans to industrial development agencies or enterprises for projects

Notes of Decisions

In general 1

contribution to a sum less than 10 percent of the cost or estimated cost of industrial development project. 53 W.Va. Op. Atty. Gen. 339 (November 18, 1969) 1969 WL 100574.

1. In general

Participation in loan by an agency of the federal government reduces local development agency's

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Section

31-15A-3.

West Virginia infrastructure and jobs development council continued; members of council; staff of council.

Section

31-15A-11.

Reservation of funds for projects and infrastructure projects.

31-15A-17a.

Infrastructure revenue bonds payable from A. James Manchin Fund.

§ 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 governor or designee, 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 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, the chancellor of the higher education policy commission and the chancellor of the West Virginia council for community and technical college education 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 governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson 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. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

(d) A member of the council who serves by virtue of his or her office does not receive compensation or reimbursement of expenses for serving as a member. The public members are reimbursed for actual expenses incurred in the service of the council in a manner consistent with guidelines of the travel management office of the department of administration.

(e) The council meets at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the economic development authority is not subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code. The governor's civil contingent fund is not 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 appropriate by the council.

(g) The council shall invite to each meeting 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 invite such other appropriate parties as is necessary to effectuate the purposes of this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005.

Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, rewrote (b); in (c), substituted "The governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson" for "The council shall annually elect one of its members as chairman"; rewrote (d); and made nonsubstantive changes throughout the section. Prior to revision, (b) and (d) read:

"(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."

"(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."

§ 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 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 executive director of the West Virginia development office for review, recommendation and approval regarding infrastructure project funding.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1998, c. 180, eff. 90 days after March 14, 1998; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005.

Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, in the last sentence, substituted "executive director of the West Virginia development office" for "council for com-

munity and economic development, or its successor".

§ 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 of this article, infrastructure revenue bonds payable from the A. James Manchin Fund created by section nine, article fifteen-a, chapter twenty-two 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.

Acts 2003, c. 251, eff. 90 days after March 8, 2003; Acts 2005, c. 199, eff. 90 days after April 9, 2005.

HB 4041

FILED

2008 MAR 31 PM 12: 25

QUINN T. CANNON
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4041**

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

Passed March 8, 2008

In Effect Ninety Days from Passage

ENROLLED

FILED
2008 MAR 31 PM 12:25

COMMITTEE SUBSTITUTE

FOR

H. B. 4041

(BY MR. SPEAKER (MR. THOMPSON) AND DELEGATE ARMSTEAD)
[BY REQUEST OF THE EXECUTIVE]

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §11-13A-3d and §11-13A-20a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-13V-4a; and to amend and reenact §31-15A-16 of said code, all relating to equalization of natural gas and coalbed methane taxation; terminating the severance and business privilege tax exemption for production of coalbed methane with certain limited exceptions; specifying that coalbed methane is taxed as natural gas for purposes of the Severance and Business Privilege Tax Act and the Workers' Compensation Debt Reduction Act with limited exceptions; authorizing Tax Commissioner to promulgate rules; requiring portion of tax be used for infrastructure projects; providing that seventy-five percent of dedicated funds be used in counties producing coalbed methane; providing that remaining twenty-five percent of dedicated funds be shared equally by counties not producing coalbed methane; and providing effective dates.

Be it enacted by the Legislature of West Virginia:

That §11-13A-3d and §11-13A-20a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §11-13V-4a; and that §31-15A-16 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

**ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE
TAX ACT.**

**§11-13A-3d. Imposition of tax on privilege of severing coalbed
methane.**

1 (a) The Legislature hereby finds and declares the
2 following:

3 (1) That coalbed methane is underdeveloped and an
4 under-utilized resource within this state which, where
5 practicable, should be captured and not be vented or wasted;

6 (2) The health and safety of persons engaged in coal
7 mining is a paramount concern to the state. The Legislature
8 intends to preserve coal seams for future safe mining, to
9 facilitate the expeditious, safe evacuation of coalbed methane
10 from the coalbeds of this state, and to ensure the safety of
11 miners by encouraging the advance removal of coalbed
12 methane;

13 (3) The United States environmental protection agency's
14 coalbed methane outreach program encourages United States
15 coal mines in the United States to remove and use methane
16 that is otherwise wasted during mining. These projects have
17 important economic benefits for the mines and their local
18 economies while they also reduce emissions of methane; and

19 (4) The initial costs of development of coalbed methane
20 wells can be large in comparison to conventional wells and
21 deoxygenation and water removal increase development
22 expenditures.

23 The Legislature, therefore, concludes that an incentive to
24 coalbed methane development should be implemented to
25 encourage capture of methane gas that would otherwise be
26 vented to the atmosphere.

27 (b) *Imposition of tax.* — In lieu of the annual privilege tax
28 imposed on the severance of natural gas or oil pursuant to
29 section three-a, article thirteen-a, for the privilege of
30 engaging or continuing within this state in the business of
31 severing coalbed methane for sale, profit or commercial use,
32 there is hereby levied and shall be collected from every
33 person exercising such privilege an annual privilege tax:
34 *Provided*, That effective for taxable years beginning on or
35 after the first day of January, two thousand one, there is an
36 exemption from the imposition of the tax provided for in this
37 article for a maximum period of five years for all coalbed
38 methane produced from any coalbed methane well placed in
39 service after the first day of January, two thousand. For
40 purposes of this section, the terms "coalbed methane" and
41 "coalbed methane well" have the meaning ascribed to them
42 in section two, article twenty-one, chapter twenty-two of this
43 code. The exemption from tax provided by this section is
44 applicable to any coalbed methane well placed in service
45 before the first day of January, two thousand nine, subject to
46 the provisions of subsection (f) of this section.

47 (c) *Rate and measure of tax.* -- The tax imposed on
48 subsection (b) of this section is five percent of the gross value
49 of the coalbed methane produced, as shown by the gross
50 proceeds derived from the sale thereof by the producer,
51 except as otherwise provided in this article.

52 (d) *Tax in addition to other taxes.* -- The tax imposed by
53 this section applies to all persons severing coalbed methane
54 in this state, and is in addition to all other taxes imposed by
55 law.

56 (e) Except as specifically provided in this section,
57 application of the provisions of this article apply to coalbed
58 methane in the same manner and with like effect as the
59 provisions apply to natural gas.

60 (f) Notwithstanding any other provision of this code to
61 the contrary, on and after the first day of January, two
62 thousand nine, the exemption from the tax on the privilege of
63 severing coalbed methane created in this section will no
64 longer be applicable except that the privilege tax shall not be
65 collected on coalbed methane produced from any coalbed
66 methane well for the remainder of the five-year exemption
67 for any well that was placed in service, including the
68 commencement of actual drilling of the well, before the first
69 day of January, two thousand nine.

70 (g) Subject to the exceptions set forth in this section and
71 article thirteen-v of this chapter, on and after the first day of
72 January, two-thousand nine, coalbed methane and methane
73 produced from or by a coalbed methane well is taxable as
74 natural gas for purposes of the taxes imposed by this article
75 and the taxes imposed by article thirteen-v of this chapter.

76 (h) The Tax Commissioner shall promulgate emergency
77 and legislative rules, in accordance with the provisions of
78 article three, chapter twenty-nine-a of this code, as necessary
79 to effectuate the purposes of this article.

§11-13A-20a. Dedication of tax.

1 (a) The amount of taxes collected under this article from
2 providers of health care items or services, including any

3 interest, additions to tax and penalties collected under article
4 ten of this chapter, less the amount of allowable refunds and
5 any interest payable with respect to such refunds, shall be
6 deposited into the special revenue fund created in the State
7 Treasurer's Office and known as the Medicaid State Share
8 Fund. Said fund shall have separate accounting for those
9 health care providers as set forth in articles four-b and four-c,
10 chapter nine of this code.

11 (b) Notwithstanding the provisions of subsection (a) of
12 this section, for the remainder of fiscal year one thousand
13 nine hundred ninety-three and for each succeeding fiscal
14 year, no expenditures from taxes collected from providers of
15 health care items or services are authorized except in
16 accordance with appropriations by the Legislature.

17 (c) The amount of taxes on the privilege of severing
18 timber collected under section three-b of this article,
19 including any interest, additions to tax and penalties collected
20 under article ten of this chapter, less the amount of allowable
21 refunds and any interest payable with respect to such refunds,
22 shall be paid into a special revenue account in the State
23 Treasury to be appropriated by the Legislature for purposes
24 of the Division of Forestry.

25 (d) Notwithstanding any other provision of this code to
26 the contrary, beginning the first day of January, two thousand
27 nine, there is hereby dedicated an annual amount not to
28 exceed four million dollars from annual collections of the tax
29 imposed by section three-d of this article to be deposited into
30 the West Virginia Infrastructure Fund, created in section
31 nine, article fifteen-a, chapter thirty-one of this code.

32 (e) Beginning with the fiscal year ending the thirtieth day
33 of June, two thousand nine, and each fiscal year thereafter,
34 the Tax Commissioner shall pay from the taxes imposed in

35 section three-d of this article, on the first day of October of
36 each year, into the West Virginia Infrastructure Fund, an
37 amount not to exceed four million dollars per fiscal year.
38 Prior to making any such payment the commissioner shall
39 deduct the amount of refunds lawfully paid and
40 administrative costs authorized by this code.

41 (f) The Tax Commissioner shall provide to the West
42 Virginia Infrastructure and Jobs Development Council a
43 breakdown of coalbed methane taxes paid and amount of
44 coalbed methane produced by county. The commissioner
45 may obtain any production or other necessary information not
46 currently reported to the commissioner from the owners or
47 operators of coalbed methane wells or from the Department
48 of Environmental Protection or both.

**ARTICLE 13V. WORKERS' COMPENSATION DEBT
REDUCTION ACT.**

§11-13V-4a. Coalbed methane.

1 (a) Subject to the exceptions set forth in this section, on
2 and after the first day of January, two thousand nine, coalbed
3 methane and methane produced from or by a coalbed
4 methane well is taxable as natural gas for purposes of the
5 taxes imposed by this article. All coalbed methane produced
6 from any coalbed methane well placed in service, including
7 the commencement of actual drilling of the well, before the
8 first day of January, two thousand nine, shall be exempt from
9 the taxes imposed by this article for the remainder of the five-
10 year original exemption period set forth in section three-d,
11 article thirteen-a of this chapter and applicable to the coalbed
12 methane produced from that well.

13 (b) For purposes of this section, the terms "coalbed
14 methane" and "coalbed methane well" have the meaning

15 ascribed to them in section two, article twenty-one, chapter
16 twenty-two of this code.

CHAPTER 31. CORPORATIONS.

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

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

1 (a) There shall be dedicated an annual amount from the
2 collections of the tax collected pursuant to article thirteen-a,
3 chapter eleven of this code for the construction, extension,
4 expansion, rehabilitation, repair and improvement of water
5 supply and sewage treatment systems and for the acquisition,
6 preparation, construction and improvement of sites for
7 economic development in this state as provided in this article.

8 (b) Notwithstanding any other provision of this code to
9 the contrary, beginning on the first day of July, one thousand
10 nine hundred ninety-five, the first sixteen million dollars of
11 the tax collected pursuant to article thirteen-a, chapter eleven
12 of this code shall be deposited to the credit of the West
13 Virginia infrastructure general obligation debt service fund
14 created pursuant to section three, article fifteen-b of this
15 chapter: *Provided*, That beginning on the first day of July,
16 one thousand nine hundred ninety-eight, the first twenty-four
17 million dollars of the tax annually collected pursuant to
18 article thirteen-a of this code shall be deposited to the credit
19 of the West Virginia infrastructure general obligation debt
20 service fund created pursuant to section three, article fifteen-
21 b of this chapter.

22 (c) Notwithstanding any provision of subsection (b) of
23 this section to the contrary: (1) None of the collections from
24 the tax imposed pursuant to section six, article thirteen-a,

25 chapter eleven of this code shall be so dedicated or deposited;
26 and (2) the portion of the tax imposed by article thirteen-a,
27 chapter eleven and dedicated for purposes of medicaid and
28 the Division of Forestry pursuant to section twenty-a of said
29 article thirteen-a shall remain dedicated for the purposes set
30 forth in said section twenty-a.

31 (d) On or before the first day of May of each year,
32 commencing the first day of May, one thousand nine hundred
33 ninety-five, the council, by resolution, shall certify to the
34 treasurer and the water development authority the principal
35 and interest coverage ratio and amount for the following
36 fiscal year on any infrastructure general obligation bonds
37 issued pursuant to the provisions of article fifteen-b of this
38 chapter.

39 (e) Notwithstanding any provision of this article to the
40 contrary, the tax on coalbed methane remitted by the Tax
41 Commissioner for deposit in the West Virginia Infrastructure
42 Fund pursuant to section twenty-a, article thirteen-a, chapter
43 eleven of this code shall be distributed as follows: (1)
44 Seventy-five percent of the moneys so deposited shall be
45 distributed for infrastructure projects in the various counties
46 of this state in which the coalbed methane was produced, and
47 (2) the remaining twenty-five percent of the moneys so
48 deposited shall be distributed equally to the various counties
49 of this state in which no coalbed methane was produced for
50 infrastructure projects. Moneys shall be distributed to each
51 coalbed methane producing county in direct proportion to the
52 amount of tax paid by the county using information provided
53 by the Tax Commissioner as required in section twenty-a,
54 article thirteen-a, chapter eleven of this code.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Nancy White
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Darrell Eskens
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

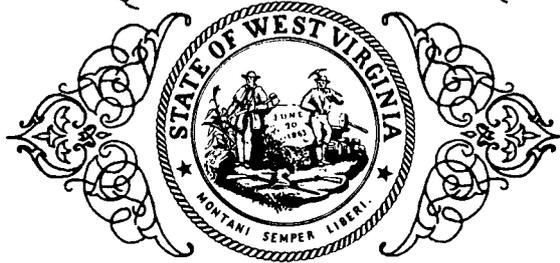
[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2008.

[Signature]
Governor

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, CHAPTER 16, ARTICLE 13A OF THE 2007 SUPPLEMENT TO THE WEST VIRGINIA CODE, AND SENATE BILL 323, PASSED MARCH 8, 2008, AND EFFECTIVE JUNE 6, 2008, AS INDICATED BY THE RECORDS OF THIS OFFICE.



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

April 4, 2008

Betty Ireland

Secretary of State



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

Section

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

Administrative Code References

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

§ 16-13A-1. Legislative findings

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

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

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

Cross References

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

Library References

Key Numbers

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

Encyclopedias

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

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Validity 1

1. Validity

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

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

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 278(2)

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 300(1)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 56

2. In general

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

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16-13A-1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health And Environment ⇨ 4

3. Construction and application

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

4. Eminent domain powers

Where notice, hearing and order with respect to creation of public service district considered

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

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

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇨ 194

6. Rates and charges for service

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

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

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

7. Creation and enforcement of liens

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

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

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legisla-

ture conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⇨ 222

8. Admissibility of evidence

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

9. Costs

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

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

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

- (a) To study, modify, approve, deny or amend the plans created under section one-b of this article for consolidation or merger of public service districts and their facilities, personnel or administration;
- (b) To petition the appropriate circuit court for the removal of a public service district board member or members; and
- (c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters.

Acts 1986, c. 81.

Library References

Key Numbers

Public Utilities ⇨ 145.
Westlaw Key Number Search: 317Ak145.

Encyclopedias

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

Notes of Decisions

In general 1

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

1. In general

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

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

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

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

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

Cross References

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

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

Library References

Key Numbers

Counties ☞ 18, 47.

Westlaw Key Number Searches: 104k18;
104k47.

Encyclopedias

C.J.S. Counties §§ 31 to 33, 70 to 73.

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

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

maintenance and control of highways, road and drainage easements, or storm-water facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways. Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Key Numbers

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

Encyclopedias

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

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

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

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

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

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

(e) All persons residing in or owning or having any interest in property in the proposed public service district shall have an opportunity to be heard for and against its creation, enlargement, reduction, merger, dissolution or consolidation. At the hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation, enlarge-

ment, reduction, merger, dissolution or consolidation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by the public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create, enlarge, reduce, merge, dissolve or consolidate such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of the area or that the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create, enlarge, reduce, merge, dissolve or consolidate the district as amended.

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

(g) The county commission may, 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 opera-

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

Note 2

tions: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the public service commission shall apply. The commission shall at all times attempt to bring about the enlargement or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district: Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article.

(h) A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year.

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

Library References

Key Numbers

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

Encyclopedias

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

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same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 56

2. Creation of public service districts

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

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

1. Validity

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

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

§ 16-13A-2

PUBLIC HEALTH

Note 2

647, 156 W.Va. 606. Municipal Corporations ⇨ 270

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

3. District boundaries

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

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the requirements for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16-13A-2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⇨ 12(3)

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

5. Number of voters within district

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

6. Costs

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

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

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

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or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

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

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

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the

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

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

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

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

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

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a

secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

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

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

Law Review and Journal Commentaries

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

Library References

Key Numbers

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

Encyclopedias

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

Notes of Decisions

In general 1
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Ministerial officers, generally 3
Standard of care 2

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. Howley, Op.Atty.Gen., July 14, 1988.

2. Standard of care

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

3. Ministerial officers, generally

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

4. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary,

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PUBLIC HEALTH

Note 4

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

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

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

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

Library References

Key Numbers

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

Encyclopedias

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

Notes of Decisions

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Sufficiency of evidence 3

1. Criminal responsibility of members

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

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or

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

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his contin-

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ued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ↻ 60

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

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

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

(b) Salaries of the board members are:

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

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

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

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

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

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

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

(2) For districts with annual revenues of fifty thousand dollars or more, but less than two hundred fifty thousand dollars, up to one hundred dollars per attendance at regular monthly meetings and seventy-five dollars per attendance

at special meetings, total salary not to exceed two thousand five hundred fifty dollars per annum;

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

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

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

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

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

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

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

Library References

Key Numbers

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

Encyclopedias

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

Notes of Decisions

In general 1

1. In general

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

forming the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. Howley, Op.Atty.Gen., July 14, 1988.

§ 16-13A-5. General manager of board

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

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

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

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

Library References

Key Numbers

Counties ⇨65, 68.
Municipal Corporations ⇨149, 161.
Westlaw Key Number Searches: 104k65;
104k68; 268k149; 268k161.

Encyclopedias

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

§ 16-13A-6. Employees of board

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

employment and compensation and prescribe the duties to be performed by such employees.

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

Library References

Key Numbers

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

Encyclopedias

C.J.S. Counties §§ 101 to 103, 107 to 108,
 128.
 C.J.S. Municipal Corporations §§ 361, 372 to
 373, 376, 378, 384 to 385, 390 to 405.

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

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

Library References

Key Numbers

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

Westlaw Key Number Searches: 104k107;
 268k711; 317Ak114.

Encyclopedias

C.J.S. Counties § 147.

WATER, SEWER & GAS PUBLIC SERVICE DISTRICTS § 16-13A-8

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

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

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

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

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That the power of eminent domain provided in this section does not extend to highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of

highways without the express agreement of the commissioner of highways: Provided, however, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof.

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

Library References

Key Numbers

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

Encyclopedias

C.J.S. Counties §§ 143 to 144, 148.
 C.J.S. Eminent Domain § 22.
 C.J.S. Municipal Corporations §§ 873 to 880.

Notes of Decisions

In general 2
Connections with sewers or drains 6
Eminent domain powers 3
Environmental assessment 5
Public corporation 7
Validity 1
Valuation of property 4

1. Validity

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

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex

rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⇨ 194

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 70.1(8)

3. Eminent domain powers

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

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89

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S.E.2d 693, 141 W.Va. 233. Eminent Domain
⊕ 3

4. Valuation of property

Although landowner is competent to give estimate of value of property in eminent domain proceeding, that valuation is not conclusive; government agency may rely on appraisal report concerning estimated value of property to be taken. *Sexton v. Public Service Com'n*, 1992, 423 S.E.2d 914, 188 W.Va. 305. Evidence ⊕ 568(4)

5. Environmental assessment

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

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously fur-

nished to tract. Code, 16-13A-8. *Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n*, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⊕ 712(1)

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

7. Public corporation

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

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

The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates, fees and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road

and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways. Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate thereof. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. All new applicants for service shall deposit a minimum of fifty dollars with the district to secure the payment of service rates, fees and charges in the event they become delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another minimum deposit of fifty dollars has been remitted to the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities provided are delinquent and the owner, user and property are liable at law until such time as all such rates, fees and charges are fully paid: Provided, That the property owner shall be given notice of any said delinquency by certified mail, return receipt requested. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, fees, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

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

district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules and orders of the public service commission.

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

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

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

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, stormwater systems or stormwater management systems or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, stormwater or gas bills. If the district collects 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, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. '16-13A-14. Items included in cost of properties.

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

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

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

Law Review and Journal Commentaries

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

Library References

Key Numbers

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

Encyclopedias

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

Notes of Decisions

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

3. Public service district liens

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

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

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

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

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A. Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 300(1)

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9; Code, 16-13A-9; U.S.C.A. Const. Amend. 5. Kingmill Valley Public Service Dist. v. Riverview Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⇨ 2(10)

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion

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PUBLIC HEALTH

Note 3

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

4. Rates and charges for service

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

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

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

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

5. Notice of availability of sewer service

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

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

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1982, c. 74.

Library References

Key Numbers

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

Encyclopedias

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

§ 16-13A-10. Budget

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and

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annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board.

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

Notes of Decisions

In general 1

1. In general

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

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

§ 16-13A-11. Accounts; audit

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

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

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

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

No money may be paid out by a district except upon an order signed by the chairman and secretary of such board, or such other person or persons authorized by the chairman or secretary, as the case may be, to sign such orders on their behalf. Each order for the payment of money shall specify the purposes for which the amount thereof is to be paid, with sufficient clearness to indicate the purpose for which the order is issued, and there shall be endorsed thereon the name of the particular fund out of which it is payable and it shall be payable from the fund constituted for such purpose, and no other. All such orders shall be reflected in the minutes of the next meeting of the board. Acts 1953, c. 147; Acts 1981, c. 124.

Library References**Key Numbers**

Counties ⇨158.

Municipal Corporations ⇨883.

Westlaw Key Number Searches: 104k158;
268k883.**Encyclopedias**

C.J.S. Counties § 198.

C.J.S. Municipal Corporations §§ 1626, 1635.

§ 16-13A-13. Revenue bonds

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

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nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.

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

Library References

Key Numbers

Counties ⇨174.

Municipal Corporations ⇨911.

Westlaw Key Number Searches: 104k174;
268k911.

Encyclopedias

C.J.S. Counties § 220.

C.J.S. Municipal Corporations § 1649.

Notes of Decisions

In general 1

1. In general

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

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

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

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

Acts 1953, c. 147.

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey,

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

Acts 1953, c. 147.

Library References

Key Numbers

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

Encyclopedias

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

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

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

Acts 1953, c. 147.

Library References

Key Numbers

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

Encyclopedias

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

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

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

Acts 1953, c. 147.

Library References

Key Numbers

.. Counties ☞188.
.. Municipal Corporations ☞937, 955.
Westlaw Key Number Searches: 104k188;
268k937; 268k955.

Encyclopedias

C.J.S. Counties § 226.
C.J.S. Municipal Corporations §§ 1707, 1711.

Notes of Decisions

In general 1

1. In general

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

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

§ 16-13A-18. Operating contracts

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

Acts 1953, c. 147.

Library References

Key Numbers

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

Encyclopedias

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

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

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

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

Note 1

which the district operates; and (3) approval by the public service commission of West Virginia.

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

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

Library References

Key Numbers

Counties Ⓒ110.

Municipal Corporations Ⓒ225.

Westlaw Key Number Searches: 104k110;
268k225.

Encyclopedias

C.J.S. Counties §§ 148 to 149.

C.J.S. Municipal Corporations § 882.

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

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

Acts 1953, c. 147.

Library References

Key Numbers

Counties Ⓒ183.

Municipal Corporations Ⓒ950(15).

Westlaw Key Number Searches: 104k183;
268k950(15).

Encyclopedias

C.J.S. Counties § 222.

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

Notes of Decisions

In general 1

1. In general

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

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

§ 16-13A-20. Refunding revenue bonds

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

Acts 1953, c. 147.

Library References

Key Numbers

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

Encyclopedias

C.J.S. Counties § 218.
 C.J.S. Municipal Corporations §§ 1651, 1653.

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

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

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

Library References

Key Numbers

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

Encyclopedias

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

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

Notes of Decisions

In general 2
Validity 1

1. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 278(2)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⇨ 56

2. In general

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

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

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

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

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

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

Library References

Key Numbers

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

Encyclopedias

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

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

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

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

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

Library References

Key Numbers

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

Encyclopedias

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

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

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

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

payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

Library References

Key Numbers

Counties ⇨149.
Municipal Corporations ⇨864(3).
Westlaw Key Number Searches: 104k149;
268k864(3).

Encyclopedias

C.J.S. Counties §§ 185, 187.
C.J.S. Municipal Corporations § 1589.

Notes of Decisions

In general 1

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

1. In general

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

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article, without the prior consent and approval of the public service commission. The public service commission may waive the provision of prior consent and approval for entering into contracts for engineering, design or feasibility studies pursuant to this section for good cause shown which is evidenced by the public service district filing a request for waiver of this section stated in a letter directed to the commission with a brief description of the project, evidence of compliance with chapter five-g of this code, and further explanation of ability to evaluate their own engineering contract, including, but not limited to: (1) Experience with the same engineering firm in the past two years requiring engineering services; or (2) completion of a construction project within the past two years requiring engineering services. The district shall also forward an executed copy of the engineering contract to the commission after receiving approval of the waiver. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four of this code, when a public service district is seeking to acquire or construct public service property.

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

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

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

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

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

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

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

Acts 1969, 1st Ex. Sess., c. 6; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1996, c. 213, eff. 90 days after March 9, 1996; Acts 1997, c. 159, eff. 90 days after April 12, 1997.

Library References

Key Numbers

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

Encyclopedias

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

Notes of Decisions

In general 1

Certificate of public convenience and necessity 2

1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of

300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and environmentally sound. Code, 16-13A-25, 24-2-11, 24-2-11(a). *Sexton v. Public Service Com'n*, 1992, 423 S.E.2d 914, 188 W.Va. 305. Municipal Corporations ⇨ 708

2. Certificate of public convenience and necessity

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

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

Note 2

can acquire or construct public service property. Code, 16-13A-25. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305. Public Utilities ⇐ 113

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



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

Chapter 16

2007
Cumulative Annual Pocket Part

Replacing 2006 Pocket Part supplementing 2002 Main Volume

Includes laws through the 2007 First Extraordinary Session

THOMSON

WEST

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9

HEALTH

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PUBLIC HEALTH

Provided, That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates, fees or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments.

(k) All rates, fees or charges, if not paid when due, shall constitute a lien upon the premises served by such works. If any service rate, fees or charge so established is not paid within twenty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto: *Provided*, That where both water and sewer services are furnished by any municipality to any premises the schedule of charges may be billed as a single amount or individually itemized and billed for the aggregate thereof.

(l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall remain unpaid for a period of twenty days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all rates, fees and charges are fully paid. When any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

(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.

Acts 1933, Ex. Sess., c. 25, § 16; Acts 1933, 2nd Ex. Sess., c. 48; Acts 1959, c. 125; Acts 1967, c. 105; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2004, c. 185, eff. 90 days after March 12, 2004.

§ 16-13-18. Supervision of works by sanitary board; organization of board; qualifications, terms and compensation of members

Notes of Decisions

Funds 3
Membership of sanitary boards 1.5

both) to be appointed to board. 52 W.Va. Op.Atty. Gen. 217 (February 9, 1967) 1967 WL 93382.

1.5. Membership of sanitary boards

Where sanitary board created by municipality optional for either mayor or city manager, (but not

3. Funds

Charleston Sanitary Board treasurer must deliver funds collected from sewer system users to Charleston city treasurer. 52 W.Va. Op.Atty.Gen. 497 (October 6, 1967) 1967 WL 93425.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

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-4. Board chairman; members' compensation; procedure; district name.

Section

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-25. Borrowing and bond issuance; procedure.

§ 16-13A-1. Legislative findings

Notes of Decisions

2. In general

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and

necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op. Atty. Gen. 116 (June 27, 1973) 1973 WL 159152.

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

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

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

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. Within ten days of fixing the date of hearing, the county commission shall provide the Executive Secretary of the Public Service Commission with a copy of the order or petition and notification of the time and place of the hearing to be held by the county commission. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county

commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

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

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

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where

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

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

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

Notes of Decisions

Referendum 7 _____ ue or be abolished. 52 W.Va. Op.Atty.Gen. 33 (August 11, 1966) 1966 WL 87428.

7. Referendum

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

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

Law Review and Journal Commentaries

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

Notes of Decisions

Removal of members 3.5 _____ W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

Sale of water 5

5. Sale of water

3.5. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

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

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

(b) Salaries of the board members are:

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided*, That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any

county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

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

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

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

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

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

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

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

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

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

become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, ten days after the water or gas services become delinquent.

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

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

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

charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) Whenever any district has made available a stormwater system to any owner, tenant or occupant of any real property located near the stormwater system and where stormwater from real property affects or drains into the stormwater system, it is hereby found, determined and declared that the owner, tenant or occupant is being served by the stormwater system and it is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge, and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater 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, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

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

Law Review and Journal Commentaries

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

§ 16-13A-13. Revenue bonds

Notes of Decisions

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

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

The cost of any public service properties acquired under the provisions of this article shall be deemed to include the cost of the acquisition or construction thereof, the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, water quality

improvement activities necessary to comply with all federal and state requirements; interest upon bonds prior to and during construction or acquisition and for six months after completion of construction or of acquisition of the improvements and extensions; engineering, fiscal agents and legal expenses; expenses for estimates of cost and of revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, and the construction or acquisition of the properties and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

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

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

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

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

(1) Experience with the same engineering firm; or

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

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

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

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

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

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

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

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in

accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

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

Research References

ALR Library

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

ARTICLE 13E

COMMUNITY ENHANCEMENT ACT

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

§ 16-13E-1. Short title

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

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

§ 16-13E-2. Definitions

For purposes of this article:

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

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

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

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

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

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WEST VIRGINIA LEGISLATURE

SEVENTY-EIGHTH LEGISLATURE

REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE

FOR

ENROLLED

Senate Bill No. 323

(SENATORS BOWMAN AND OLIVERIO, *original sponsors*)

[Passed March 8, 2008; in effect ^{90 days} from passage.]

FILED

2008 MAR 17 PM 4:23

CLARENCE M. BOWMAN
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 323

(SENATORS BOWMAN AND OLIVERIO, *original sponsors*)

[Passed March 8, 2008; in effect from passage.]

90 days

AN ACT to amend and reenact §8-20-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-13-16 and §16-13-23a of said code; and to amend and reenact §16-13A-9 of said code, all relating to the establishment and operation of stormwater systems; authorizing municipalities to set rates, charges and fees for stormwater services; providing that water service may be terminated for nonpayment of stormwater service fees; authorizing municipalities to adopt ordinances or regulations to allow

issuance of orders, entry on property, setting fines and penalties for violation of stormwater law; establishing requirements for notice of violations; authorizing municipality to correct violations and collect cost from violator; and providing that the owner, occupant or tenant of real property is deemed to be served by a stormwater system under certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §8-20-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §16-13-16 and §16-13-23a of said code be amended and reenacted; and that §16-13A-9 of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 20. COMBINED SYSTEMS.

§8-20-10. Power and authority of municipality to enact ordinances and make rules and fix rates, fees or charges; deposit required for new customers; change in rates, fees or charges; failure to cure delinquency; delinquent rates, discontinuance of service; reconnecting deposit; return of deposit; fees or charges as liens; civil action for recovery thereof; deferral of filing fees and costs in magistrate court action; limitations with respect to foreclosure.

1 (a)(1) The governing body of a municipality availing
2 itself of the provisions of this article shall have plenary
3 power and authority to make, enact and enforce all
4 necessary rules for the repair, maintenance, operation
5 and management of the combined system of the

6 municipality and for the use thereof. The governing
7 body of a municipality also has the plenary power and
8 authority to make, enact and enforce all necessary rules
9 and ordinances for the care and protection of any such
10 system for the health, comfort and convenience of the
11 public, to provide a clean water supply, to provide
12 properly treated sewage insofar as it is reasonably
13 possible to do and, if applicable, to properly collecting
14 and controlling the stormwater as is reasonably
15 possible to do: *Provided*, That no municipality may
16 make, enact or enforce any rule, regulation or
17 ordinance regulating any highways, road or drainage
18 easements or storm water facilities constructed, owned
19 or operated by the West Virginia Division of Highways.

20 (2) A municipality has the plenary power and
21 authority to charge the users for the use and service of
22 a combined system and to establish required deposits,
23 rates, fees or charges for such purpose. Separate
24 deposits, rates, fees or charges may be fixed for the
25 water and sewer services respectively and, if applicable,
26 the stormwater services, or combined rates, fees or for
27 the combined water and sewer services, and, if
28 applicable, the storm water services. Such deposits,
29 rates, fees or charges, whether separate or combined,
30 shall be sufficient at all times to pay the cost of repair,
31 maintenance and operation of the combined system,
32 provide an adequate reserve fund, an adequate
33 depreciation fund and pay the principal and interest
34 upon all revenue bonds issued under this article.
35 Deposits, rates, fees or charges shall be established,
36 revised and maintained by ordinance and become
37 payable as the governing body may determine by
38 ordinance. The rates, fees or charges shall be changed,
39 from time to time, as necessary, consistent with the

40 provisions of this article.

41 (3) All new applicants for service shall indicate to the
42 municipality or governing body whether they are an
43 owner or tenant with respect to the service location. An
44 entity providing stormwater service shall provide a
45 tenant a report of the stormwater fee charged for the
46 entire property and, if appropriate, that portion of the
47 fee to be assessed to the tenant.

48 (4) The municipality or governing body, but only one
49 of them, may collect from all new applicants for service
50 a deposit of one hundred dollars or two twelfths of the
51 average annual usage of the applicant's specific
52 customer class, whichever is greater, to secure the
53 payment of water and sewage service rates, fees and
54 charges in the event they become delinquent as
55 provided in this section. In any case where a deposit is
56 forfeited to pay service rates, fees and charges which
57 were delinquent and the user's service is disconnected
58 or terminated, service may not be reconnected or
59 reinstated by the municipality or governing body until
60 another deposit equal to one hundred dollars or a sum
61 equal to two twelfths of the average usage for the
62 applicant's specific customer class, whichever is
63 greater, is remitted to the municipality or governing
64 body. After twelve months of prompt payment history,
65 the municipality or governing body shall return the
66 deposit to the customer or credit the customer's account
67 with interest at a rate to be set by the Public Service
68 Commission: *Provided*, That where the customer is a
69 tenant, the municipality governing body is not required
70 to return the deposit until the time the tenant
71 discontinues service with the municipality or governing
72 body. Whenever any rates, fees, rentals or charges for

73 services or facilities furnished remain unpaid for a
74 period of twenty days after they become due, the user of
75 the services and facilities provided is delinquent and
76 the user is liable at law until all rates, fees and charges
77 are fully paid. The municipality or governing body may
78 terminate water services to a delinquent user of either
79 water or sewage facilities, or both, ten days after the
80 water or sewage services become delinquent regardless
81 of whether the governing body utilizes the security
82 deposit to satisfy any delinquent payments: *Provided*,
83 That any termination of water service must comply
84 with all rules and orders of the Public Service
85 Commission.

86 (b) Whenever any rates, fees or charges for services or
87 facilities furnished remain unpaid for a period of
88 twenty days after they become due, the user of the
89 services and facilities provided shall be delinquent and
90 the municipality or governing body may apply any
91 deposit against any delinquent fee. The user is liable
92 until such time as all rates, fees and charges are fully
93 paid.

94 (c) All rates, fees or charges for water service, sewer
95 service and, if applicable, stormwater service, whenever
96 delinquent, as provided by ordinance of the
97 municipality, shall be liens of equal dignity, rank and
98 priority with the lien on such premises of state, county,
99 school and municipal taxes for the amount thereof upon
100 the real property served. The municipality has the
101 plenary power and authority to enforce such lien in a
102 civil action to recover the money due for services
103 rendered plus court fees and costs and reasonable
104 attorney's fees: *Provided*, That an owner of real
105 property may not be held liable for the delinquent rates,

106 fees or charges for services or facilities of a tenant, nor
107 shall any lien attach to real property for the reason of
108 delinquent rates, fees or charges for services or facilities
109 of a tenant of the real property, unless the owner has
110 contracted directly with the municipality to purchase
111 such services or facilities.

112 (d) Municipalities are hereby granted a deferral of
113 filing fees or other fees and costs incidental to filing an
114 action in magistrate court for collection of the
115 delinquent rates and charges. If the municipality
116 collects the delinquent account, plus fees and costs,
117 from its customer or other responsible party, the
118 municipality shall pay to the magistrate court the filing
119 fees or other fees and costs which were previously
120 deferred.

121 (e) No municipality may foreclose upon the premises
122 served by it for delinquent rates, fees or charges for
123 which a lien is authorized by this section except
124 through a civil action in the circuit court of the county
125 wherein the municipality lies. In every such action, the
126 court shall be required to make a finding based upon
127 the evidence and facts presented that the municipality
128 has exhausted all other remedies for collection of debts
129 with respect to such delinquencies prior to bringing the
130 action. In no event shall foreclosure procedures be
131 instituted by any municipality or on its behalf unless
132 the delinquency has been in existence or continued for
133 a period of two years from the date of the first
134 delinquency for which foreclosure is being sought.

135 (f) Notwithstanding any other provision contained in
136 this article, a municipality which has been designated
137 by the Environmental Protection Agency as an entity to

138 serve a West Virginia Separate Storm Sewer System
139 community, as defined in 40 C. F. R. §122.26, has the
140 authority to enact ordinances or regulations which
141 allow for the issuance of orders, the right to enter
142 properties and the right to impose reasonable fines and
143 penalties regarding correction of violations of
144 municipal stormwater ordinances or regulations within
145 the municipal watershed served by the municipal
146 stormwater system, as long as such rules, regulations,
147 fines or acts are not contrary to any rules or orders of
148 the Public Service Commission.

149 (g) Notice of a violation of a municipal stormwater
150 ordinance or regulation shall be served in person to the
151 alleged violator or by certified mail return receipt
152 requested. The notice shall state the nature of the
153 violation, the potential penalty, the action required to
154 correct the violation and the time limit for making the
155 correction. Should a person, after receipt of proper
156 notice, fail to correct violation of the municipal
157 stormwater ordinance or regulation, the municipality
158 may correct or have the corrections of the violation
159 made and bring the party into compliance with the
160 applicable stormwater ordinance or regulation. The
161 municipality may collect the costs of correcting the
162 violation from the person by instituting a civil action,
163 as long as such actions are not contrary to any rules or
164 orders of the Public Service Commission.

165 (h) A municipality which has been designated by the
166 Environmental Protection Agency as an entity to serve
167 a West Virginia Separate Storm Sewer System
168 community shall prepare an annual report detailing the
169 collection and expenditure of rates, fees or charges and
170 make it available for public review at the place of

171 business of the governing body and the stormwater
172 utility main office.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.

§16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

1 A governing body has the power and duty, by
2 ordinance, to establish and maintain just and equitable
3 rates, fees or charges for the use of and the service
4 rendered by:

5 (a) Sewerage works, to be paid by the owner of each
6 and every lot, parcel of real estate or building that is
7 connected with and uses such works by or through any
8 part of the sewerage system of the municipality or that
9 in any way uses or is served by such works; and

10 (b) Stormwater works, to be paid by the owner of
11 each and every lot, parcel of real estate or building that
12 in any way uses or is served by such stormwater works
13 or whose property is improved or protected by the
14 stormwater works or any user of such stormwater
15 works.

16 (c) The governing body may change and readjust such
17 rates, fees or charges from time to time. However, no
18 rates, fees or charges for stormwater services may be
19 assessed against highways, road and drainage
20 easements or stormwater facilities constructed, owned

21 or operated by the West Virginia Division of Highways.

22 (d) All new applicants for service shall indicate to the
23 governing body whether they are an owner or tenant
24 with respect to the service location. An entity
25 providing stormwater service shall provide a tenant a
26 report of the stormwater fee charged for the entire
27 property and, if appropriate, that portion of the fee to
28 be assessed to the tenant.

29 (e) The governing body may collect from all new
30 applicants for service a deposit of fifty dollars or two
31 twelfths of the average annual usage of the applicant's
32 specific customer class, whichever is greater, to secure
33 the payment of service rates, fees and charges in the
34 event they become delinquent as provided in this
35 section. In any case where a deposit is forfeited to pay
36 service rates, fees and charges which were delinquent at
37 the time of disconnection or termination of service,
38 service may not be reconnected or reinstated by the
39 governing body until another deposit equal to fifty
40 dollars or a sum equal to two twelfths of the average
41 usage for the applicant's specific customer class,
42 whichever is greater, is remitted to the governing body.
43 After twelve months of prompt payment history, the
44 governing body shall return the deposit to the customer
45 or credit the customer's account with interest at a rate
46 as the Public Service Commission may prescribe:
47 *Provided*, That where the customer is a tenant, the
48 governing body is not required to return the deposit
49 until the time the tenant discontinues service with the
50 governing body. Whenever any rates, fees, rentals or
51 charges for services or facilities furnished remain
52 unpaid for a period of twenty days after they become
53 due, the user of the services and facilities provided is

54 delinquent. The user is liable until all rates, fees and
55 charges are fully paid. The governing body may, under
56 reasonable rules promulgated by the Public Service
57 Commission, shut off and discontinue water services to
58 a delinquent user of sewer facilities ten days after the
59 sewer services become delinquent regardless of whether
60 the governing body utilizes the security deposit to
61 satisfy any delinquent payments.

62 (f) Such rates, fees or charges shall be sufficient in
63 each year for the payment of the proper and reasonable
64 expense of operation, repair, replacements and
65 maintenance of the works and for the payment of the
66 sums herein required to be paid into the sinking fund.
67 Revenues collected pursuant to this section shall be
68 considered the revenues of the works.

69 (g) No such rates, fees or charges shall be established
70 until after a public hearing, at which all the users of the
71 works and owners of property served or to be served
72 thereby and others interested shall have an opportunity
73 to be heard concerning the proposed rates, fees or
74 charges.

75 (h) After introduction of the ordinance fixing such
76 rates, fees or charges, and before the same is finally
77 enacted, notice of such hearing, setting forth the
78 proposed schedule of rates, fees or charges, shall be
79 given by publication as a Class II-0 legal advertisement
80 in compliance with the provisions of article three,
81 chapter fifty-nine of this code and the publication area
82 for such publication shall be the municipality. The first
83 publication shall be made at least ten days before the
84 date fixed in the notice for the hearing.

85 (i) After the hearing, which may be adjourned, from
86 time to time, the ordinance establishing rates, fees or
87 charges, either as originally introduced or as modified
88 and amended, shall be passed and put into effect. A
89 copy of the schedule of the rates, fees and charges shall
90 be kept on file in the office of the board having charge
91 of the operation of such works, and also in the office of
92 the clerk of the municipality, and shall be open to
93 inspection by all parties interested. The rates, fees or
94 charges established for any class of users or property
95 served shall be extended to cover any additional
96 premises thereafter served which fall within the same
97 class, without the necessity of any hearing or notice.

98 (j) Any change or readjustment of such rates, fees or
99 charges may be made in the same manner as the rates,
100 fees or charges were originally established as
101 hereinbefore provided: *Provided*, That if a change or
102 readjustment be made substantially pro rata, as to all
103 classes of service, no hearing or notice shall be required.
104 The aggregate of the rates, fees or charges shall always
105 be sufficient for the expense of operation, repair and
106 maintenance and for the sinking fund payments.

107 (k) All rates, fees or charges, if not paid when due,
108 shall constitute a lien upon the premises served by such
109 works. If any service rate, fees or charge is not paid
110 within twenty days after it is due, the amount thereof,
111 together with a penalty of ten percent and a reasonable
112 attorney's fee, may be recovered by the board in a civil
113 action in the name of the municipality. The lien may be
114 foreclosed against such lot, parcel of land or building in
115 accordance with the laws relating thereto. Where both
116 water and sewer services are furnished by any
117 municipality to any premises the schedule of charges

118 may be billed as a single amount or individually
119 itemized and billed for the aggregate thereof.

120 (l) Whenever any rates, rentals, fees or charges for
121 services or facilities furnished shall remain unpaid for
122 a period of twenty days after they become due, the
123 property and the owner thereof, as well as the user of
124 the services and facilities shall be delinquent until such
125 time as all rates, fees and charges are fully paid. When
126 any payment for rates, rentals, fees or charges becomes
127 delinquent, the governing body may use the security
128 deposit to satisfy the delinquent payment.

129 (m) The board collecting the rates, fees or charges
130 shall be obligated under reasonable rules to shut off
131 and discontinue both water and sewer services to all
132 delinquent users of water, sewer or stormwater
133 facilities and shall not restore either water facilities or
134 sewer facilities to any delinquent user of any such
135 facilities until all delinquent rates, fees or charges for
136 water, sewer and stormwater facilities, including
137 reasonable interest and penalty charges, have been paid
138 in full, as long as such actions are not contrary to any
139 rules or orders of the Public Service Commission.

**§16-13-23a. Additional powers of municipality to cease
pollution.**

1 (a) Notwithstanding any other provision contained in
2 this article, and in addition thereto, the governing body
3 of any municipality which has received or which
4 hereafter receives an order issued by the Secretary of
5 the Department of Environmental Protection or the
6 Environmental Quality Board requiring the
7 municipality to cease the pollution of any stream or

8 waters is hereby authorized to establish and maintain,
9 by ordinance, just and equitable rates, fees or charges
10 for the use of the services and facilities of the existing
11 municipal sewer system and/or stormwater system, or
12 for the use of the services and facilities to be rendered
13 upon completion of any works and system necessary by
14 virtue of said order, to be paid by the owner, tenant or
15 occupant of each and every lot or parcel of real estate or
16 building that is connected with and uses any part of
17 such sewer system or stormwater system, or that in any
18 way uses or is served thereby, and may change and
19 readjust such rates, fees or charges from time to time.

20 (b) The rates, fees or charges shall be sufficient to all
21 the proper and reasonable costs and expenses of the
22 acquisition and construction of plants, machinery and
23 works for the collection, treatment, purification and
24 disposal of sewage or stormwater and the repair,
25 alteration and extension of existing sewer facilities or
26 stormwater facilities, as may be necessary to comply
27 with such order of the Secretary of the Department of
28 Environmental Protection or the Environmental
29 Quality Board, and for the operation, maintenance and
30 repair of the entire works and system.

31 (c) The governing body shall create, by ordinance, a
32 sinking fund to accumulate and hold any part or all of
33 the proceeds derived from rates or charges until
34 completion of the construction, to be remitted to and
35 administered by the Municipal Bond Commission by
36 expending and paying the costs and expenses of
37 construction and operation in the manner as provided
38 by said ordinance.

39 (d) After the completion of the construction, the rates,

40 fees or charges shall be sufficient in each year for the
41 payment of the proper and reasonable costs and
42 expenses of operation, maintenance, repair,
43 replacement and extension, from time to time, of the
44 entire sewer and works or entire stormwater works.

45 (e) No such rates, fees or charges shall be established
46 until after a public hearing, at which all the potential
47 users of the works and owners of property served or to
48 be served thereby and others shall have had an
49 opportunity to be heard concerning the proposed rates
50 or charges.

51 (f) After introduction of the ordinance fixing rates,
52 fees or charges, and before the same is finally enacted,
53 notice of such hearing setting forth the proposed
54 schedule of rates, fees or charges shall be given by
55 publication of notice as a Class II-0 legal advertisement
56 in compliance with the provisions of article three,
57 chapter fifty-nine of this code. The publication area for
58 such publication is the municipality. The first
59 publication shall be made at least ten days before the
60 date fixed therein for the hearing.

61 (g) After such hearing, which may be adjourned from
62 time to time, the ordinance establishing the rates, fees
63 or charges, either as originally introduced or as
64 modified and amended, may be passed and put into
65 effect. A copy of the schedule of the rates, fees and
66 charges so established shall be kept on file in the office
67 of the sanitary board having charge of the construction
68 and operation of such works and in the office of the
69 clerk of the municipality. The schedule of rates, fees
70 and charges shall be open to inspection by all parties
71 interested. The rates, fees or charges established for

72 any class of users or property served shall be extended
73 to cover any additional premises thereafter served
74 which fall within the same class, without the necessity
75 of any hearing or notice.

76 (h) Any change or readjustment of rates, fees or
77 charges may be made in the same manner as rates, fees
78 or charges were originally established as hereinbefore
79 provided: *Provided*, That if such change or
80 readjustment be made substantially pro rata, as to all
81 classes of service, no hearing or notice is required.

82 (i) If any rate, fees or charge is not paid within thirty
83 days after it is due, the amount thereof, together with a
84 penalty of ten percent and a reasonable attorney's fee,
85 may be recovered by the sanitary board of the
86 municipality in a civil action in the name of the
87 municipality.

88 (j) Any municipality exercising the powers given
89 herein has the authority to construct, acquire, improve,
90 equip, operate, repair and maintain any plants,
91 machinery or works necessary to comply with the order
92 of the Secretary of the Department of Environmental
93 Protection or the Environmental Quality Board and the
94 authority provided herein to establish, maintain and
95 collect rates, fees or charges is an additional and
96 alternative method of financing such works and
97 matters, and is independent of any other provision of
98 this article insofar as the article provides for or requires
99 the issuance of revenue bonds or the imposition of rates,
100 fees and charges in connection with the bonds:
101 *Provided*, That except for the method of financing such
102 works and matters, the construction, acquisition,
103 improvement, equipment, custody, operation, repair

104 and maintenance of any plants, machinery or works in
105 compliance with an order of the Secretary of the
106 Department of Environmental Protection or the
107 Environmental Quality Board and the rights, powers
108 and duties of the municipality and the respective
109 officers and departments thereof, including the sanitary
110 board, are governed by the provisions of this article.

111 (k) The jurisdiction and authority provided by this
112 section does not extend to highways, road and drainage
113 easements and stormwater facilities constructed, owned
114 or operated by the West Virginia Division of Highways
115 and no rates, fees or charges for stormwater services or
116 costs of compliance may be assessed against highways,
117 road and drainage easements and/or stormwater
118 facilities constructed, owned and/or operated by the
119 West Virginia Division of Highways.

120 (l) A municipality which has been designated by the
121 Environmental Protection Agency as an entity to serve
122 a West Virginia Separate Storm Sewer System
123 community, as defined in 40 C. F. R. §122.26, has the
124 authority to enact ordinances or regulations which
125 allow for the issuance of orders, the right to enter
126 properties and the right to impose reasonable fines and
127 penalties regarding correction of violations of
128 municipal stormwater ordinances or regulations within
129 the municipal watershed served by the municipal
130 stormwater system, as long as such rules, regulations,
131 fines or actions are not contrary to any rules or orders
132 of the Public Service Commission.

133 (m) Notice of a violation of a municipal stormwater
134 ordinance or regulation shall be served in person to the
135 alleged violator or by certified mail return receipt

136 requested. The notice shall state the nature of the
137 violation, the potential penalty, the action required to
138 correct the violation and the time limit for making the
139 correction. Should a person, after receipt of proper
140 notice, fail to correct the violation of the municipal
141 stormwater ordinance or regulation, the municipality
142 may make or have made the corrections of the violation
143 and bring the party into compliance with the applicable
144 stormwater ordinance or regulation. The municipality
145 may collect the costs of correcting the violation from
146 the person by instituting a civil action, as long as such
147 actions are not contrary to any rules or orders of the
148 Public Service Commission.

149 (n) A municipality which has been designated by the
150 Environmental Protection Agency as an entity to serve
151 a West Virginia Separate Storm Sewer System
152 community shall prepare an annual report detailing the
153 collection and expenditure of rates, fees or charges and
154 make it available for public review at the place of
155 business of the governing body and the stormwater
156 utility main office.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

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

1 (a) (1) The board may make, enact and enforce all
2 needful rules in connection with the acquisition,
3 construction, improvement, extension, management,
4 maintenance, operation, care, protection and the use of
5 any public service properties owned or controlled by
6 the district. The board shall establish rates, fees and
7 charges for the services and facilities it furnishes, which

8 shall be sufficient at all times, notwithstanding the
9 provisions of any other law or laws, to pay the cost of
10 maintenance, operation and depreciation of the public
11 service properties and principal of and interest on all
12 bonds issued, other obligations incurred under the
13 provisions of this article and all reserve or other
14 payments provided for in the proceedings which
15 authorized the issuance of any bonds under this article.
16 The schedule of the rates, fees and charges may be
17 based upon:

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

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

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

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

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

36 (2) Where water, sewer, stormwater or gas services, or

37 any combination thereof, are all furnished to any
38 premises, the schedule of charges may be billed as a
39 single amount for the aggregate of the charges. The
40 board shall require all users of services and facilities
41 furnished by the district to designate on every
42 application for service whether the applicant is a tenant
43 or an owner of the premises to be served. If the
44 applicant is a tenant, he or she shall state the name and
45 address of the owner or owners of the premises to be
46 served by the district. Notwithstanding the provisions
47 of section eight, article three, chapter twenty-four of
48 this code to the contrary, all new applicants for service
49 shall deposit the greater of a sum equal to two twelfths
50 of the average annual usage of the applicant's specific
51 customer class or fifty dollars, with the district to
52 secure the payment of service rates, fees and charges in
53 the event they become delinquent as provided in this
54 section. If a district provides both water and sewer
55 service, all new applicants for service shall deposit the
56 greater of a sum equal to two twelfths of the average
57 annual usage for water service or fifty dollars and the
58 greater of a sum equal to two twelfths of the average
59 annual usage for wastewater service of the applicant's
60 specific customer class or fifty dollars. In any case
61 where a deposit is forfeited to pay service rates, fees
62 and charges which were delinquent at the time of
63 disconnection or termination of service, no
64 reconnection or reinstatement of service may be made
65 by the district until another deposit equal to the greater
66 of a sum equal to two twelfths of the average usage for
67 the applicant's specific customer class or fifty dollars
68 has been remitted to the district. After twelve months
69 of prompt payment history, the district shall return the
70 deposit to the customer or credit the customer's account
71 at a rate as the Public Service Commission may

72 prescribe: *Provided*, That where the customer is a
73 tenant, the district is not required to return the deposit
74 until the time the tenant discontinues service with the
75 district. Whenever any rates, fees, rentals or charges
76 for services or facilities furnished remain unpaid for a
77 period of twenty days after the same become due and
78 payable, the user of the services and facilities provided
79 is delinquent and the user is liable at law until all rates,
80 fees and charges are fully paid. The board may, under
81 reasonable rules promulgated by the Public Service
82 Commission, shut off and discontinue water or gas
83 services to all delinquent users of either water or gas
84 facilities, or both, ten days after the water or gas
85 services become delinquent.

86 (b) In the event that any publicly or privately owned
87 utility, city, incorporated town, other municipal
88 corporation or other public service district included
89 within the district owns and operates separately water
90 facilities, sewer facilities or stormwater facilities and
91 the district owns and operates another kind of facility
92 either water or sewer, or both, as the case may be, then
93 the district and the publicly or privately owned utility,
94 city, incorporated town or other municipal corporation
95 or other public service district shall covenant and
96 contract with each other to shut off and discontinue the
97 supplying of water service for the nonpayment of sewer
98 or stormwater service fees and charges: *Provided*, That
99 any contracts entered into by a public service district
100 pursuant to this section shall be submitted to the Public
101 Service Commission for approval. Any public service
102 district which provides water and sewer service, water
103 and stormwater service or water, sewer and stormwater
104 service has the right to terminate water service for
105 delinquency in payment of water, sewer or stormwater

106 bills. Where one public service district is providing
107 sewer service and another public service district or a
108 municipality included within the boundaries of the
109 sewer or stormwater district is providing water service
110 and the district providing sewer or stormwater service
111 experiences a delinquency in payment, the district or
112 the municipality included within the boundaries of the
113 sewer or stormwater district that is providing water
114 service, upon the request of the district providing sewer
115 or stormwater service to the delinquent account, shall
116 terminate its water service to the customer having the
117 delinquent sewer or stormwater account: *Provided,*
118 *however,* That any termination of water service must
119 comply with all rules and orders of the Public Service
120 Commission.

121 (c) Any district furnishing sewer facilities within the
122 district may require, or may by petition to the circuit
123 court of the county in which the property is located,
124 compel or may require the Division of Health to compel
125 all owners, tenants or occupants of any houses,
126 dwellings and buildings located near any sewer
127 facilities where sewage will flow by gravity or be
128 transported by other methods approved by the Division
129 of Health, including, but not limited to, vacuum and
130 pressure systems, approved under the provisions of
131 section nine, article one, chapter sixteen of this code,
132 from the houses, dwellings or buildings into the sewer
133 facilities, to connect with and use the sewer facilities
134 and to cease the use of all other means for the
135 collection, treatment and disposal of sewage and waste
136 matters from the houses, dwellings and buildings where
137 there is gravity flow or transportation by any other
138 methods approved by the Division of Health, including,
139 but not limited to, vacuum and pressure systems,

140 approved under the provisions of section nine, article
141 one, chapter sixteen of this code and the houses,
142 dwellings and buildings can be adequately served by
143 the sewer facilities of the district and it is declared that
144 the mandatory use of the sewer facilities provided for in
145 this paragraph is necessary and essential for the health
146 and welfare of the inhabitants and residents of the
147 districts and of the state. If the public service district
148 requires the property owner to connect with the sewer
149 facilities even when sewage from dwellings may not
150 flow to the main line by gravity and the property owner
151 incurs costs for any changes in the existing dwellings'
152 exterior plumbing in order to connect to the main sewer
153 line, the Public Service District Board shall authorize
154 the district to pay all reasonable costs for the changes
155 in the exterior plumbing, including, but not limited to,
156 installation, operation, maintenance and purchase of a
157 pump or any other method approved by the Division of
158 Health. Maintenance and operation costs for the extra
159 installation should be reflected in the users charge for
160 approval of the Public Service Commission. The circuit
161 court shall adjudicate the merits of the petition by
162 summary hearing to be held not later than thirty days
163 after service of petition to the appropriate owners,
164 tenants or occupants.

165 (d) Whenever any district has made available sewer
166 facilities to any owner, tenant or occupant of any house,
167 dwelling or building located near the sewer facility and
168 the engineer for the district has certified that the sewer
169 facilities are available to and are adequate to serve the
170 owner, tenant or occupant and sewage will flow by
171 gravity or be transported by other methods approved by
172 the Division of Health from the house, dwelling or
173 building into the sewer facilities, the district may

174 charge, and the owner, tenant or occupant shall pay,
175 the rates and charges for services established under this
176 article only after thirty-day notice of the availability of
177 the facilities has been received by the owner, tenant or
178 occupant. Rates and charges for sewage services shall
179 be based upon actual water consumption or the average
180 monthly water consumption based upon the owner's,
181 tenant's or occupant's specific customer class.

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

208 (f) All delinquent fees, rates and charges of the
209 district for either water facilities, sewer facilities, gas
210 facilities or stormwater systems or stormwater
211 management programs are liens on the premises served
212 of equal dignity, rank and priority with the lien on the
213 premises of state, county, school and municipal taxes.
214 In addition to the other remedies provided in this
215 section, public service districts are granted a deferral of
216 filing fees or other fees and costs incidental to the
217 bringing and maintenance of an action in magistrate
218 court for the collection of delinquent water, sewer,
219 stormwater or gas bills. If the district collects the
220 delinquent account, plus reasonable costs, from its
221 customer or other responsible party, the district shall
222 pay to the magistrate the normal filing fee and
223 reasonable costs which were previously deferred. In
224 addition, each public service district may exchange
225 with other public service districts a list of delinquent
226 accounts: *Provided*, That an owner of real property may
227 not be held liable for the delinquent rates or charges for
228 services or facilities of a tenant, nor may any lien attach
229 to real property for the reason of delinquent rates or
230 charges for services or facilities of a tenant of the real
231 property, unless the owner has contracted directly with
232 the public service district to purchase the services or
233 facilities.

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

242 (h) A public service district which has been
243 designated by the Environmental Protection Agency as
244 an entity to serve a West Virginia Separate Storm
245 Sewer System community shall prepare an annual
246 report detailing the collection and expenditure of rates,
247 fees or charges and make it available for public review
248 at the place of business of the governing body and the
249 stormwater utility main office.

A handwritten signature in cursive script, appearing to read "John H. ...", is located in the lower center of the page. The signature is written in dark ink and is somewhat stylized.

Enr. Com. Sub. for S. B. No. 323] 26

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Shirley Love
.....
Chairman Senate Committee
Member

Jh
.....
Chairman House Committee

Originated in the Senate.

^{90 days}
In effect from passage.

Darrell E. Brown
.....
Clerk of the Senate

Bryce S. Egan
.....
Clerk of the House of Delegates

Carl Roy Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is appended* this
the *17th* Day of *March*, 2008.

[Signature]
.....
Governor

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.

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.

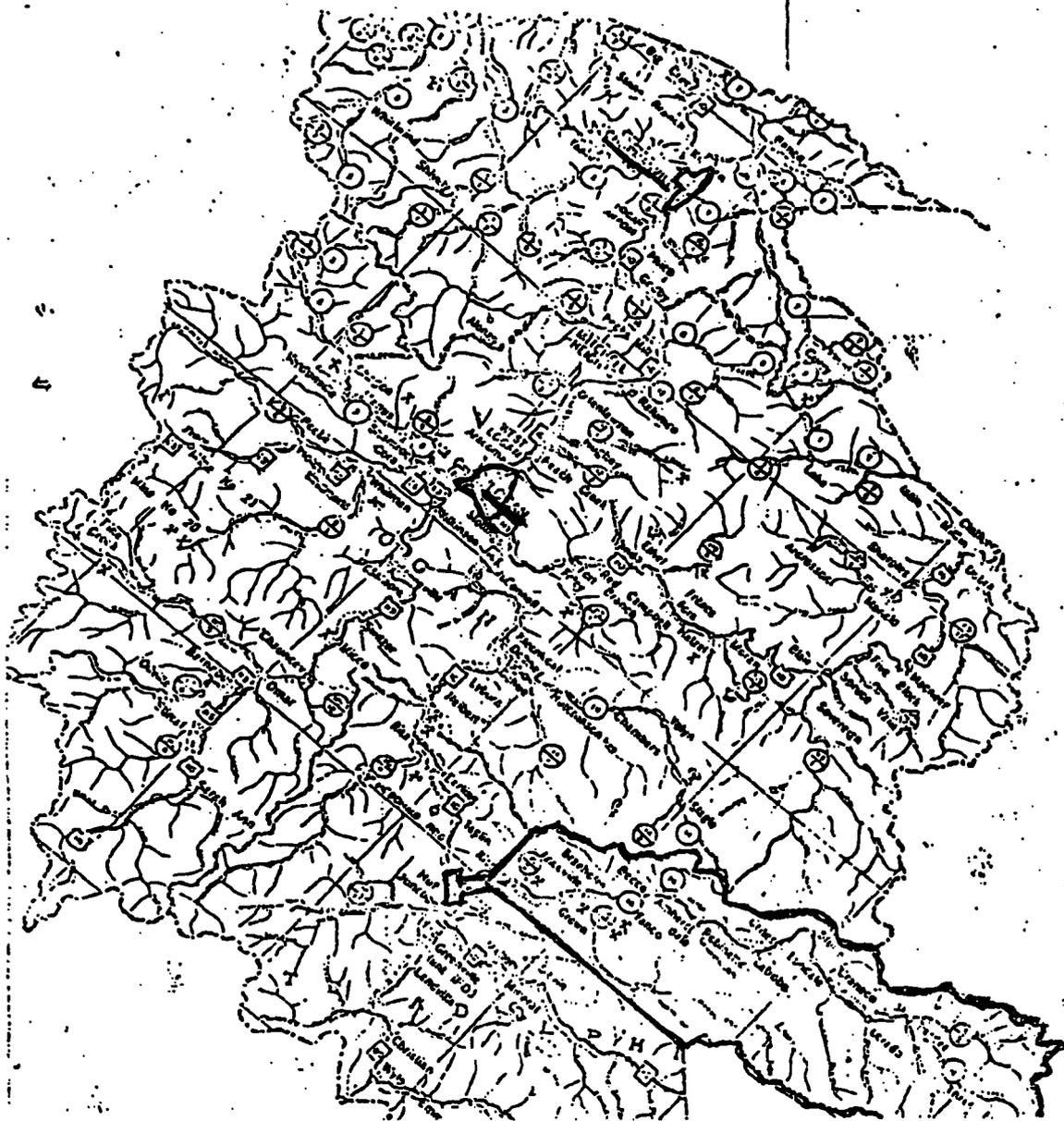
The County Commission further Orders that a public hearing shall be held on the creation of said public service district and the date of said hearing shall be *June 5,* 1975, at *11* o'clock *AM,* at Logan County Courthouse. It is further Ordered that the necessary and proper legal advertisements and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

ENTERED this the *5th day of May* 1975.

C. B. [Signature]

James Lambert

Clayton Hogan



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 Cove-Sharrock-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.

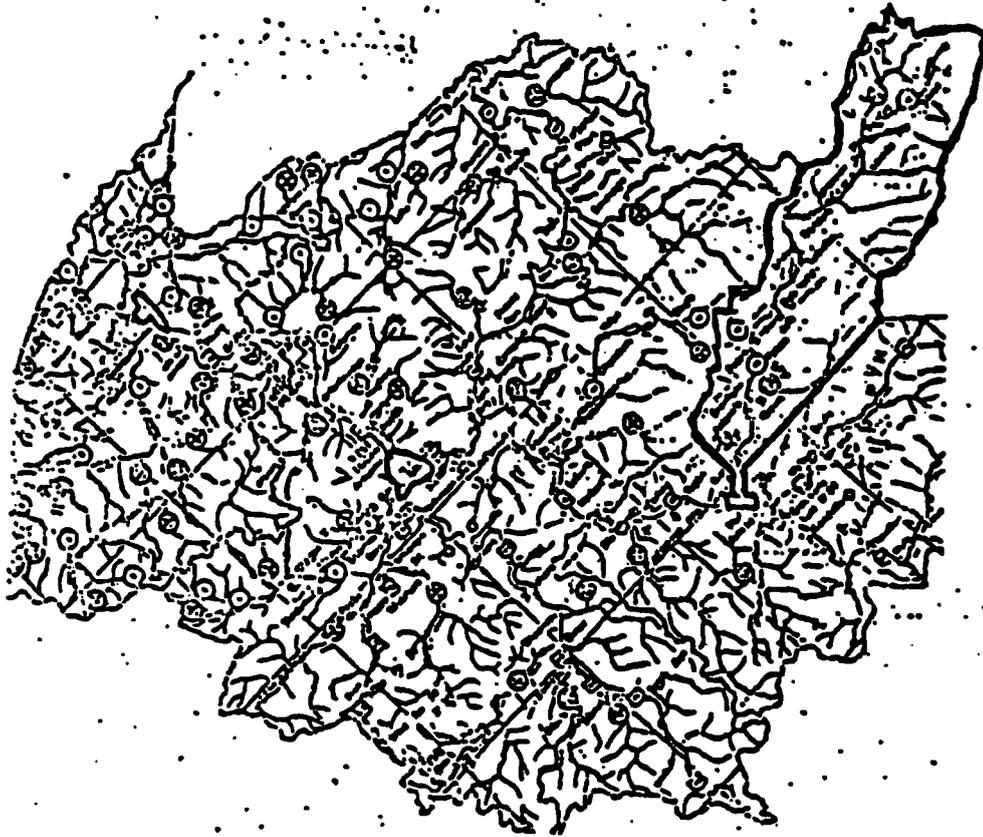

James L. Owen
Mayor

3 Legals

3 Legals

1 Legal

1 Legal



THE LAND OFFICE OF THE DISTRICT OF COLUMBIA
RECORDS AND DEEDS DIVISION
1911
This map shows the land parcels in the District of Columbia, as recorded in the records and deeds division of the Land Office of the District of Columbia, as of the date of the recording of the deed.

THE LAND OFFICE OF THE DISTRICT OF COLUMBIA
RECORDS AND DEEDS DIVISION
1911
This map shows the land parcels in the District of Columbia, as recorded in the records and deeds division of the Land Office of the District of Columbia, as of the date of the recording of the deed.

THE LAND OFFICE OF THE DISTRICT OF COLUMBIA
RECORDS AND DEEDS DIVISION
1911
This map shows the land parcels in the District of Columbia, as recorded in the records and deeds division of the Land Office of the District of Columbia, as of the date of the recording of the deed.

THE LAND OFFICE OF THE DISTRICT OF COLUMBIA
RECORDS AND DEEDS DIVISION
1911
This map shows the land parcels in the District of Columbia, as recorded in the records and deeds division of the Land Office of the District of Columbia, as of the date of the recording of the deed.

THE LAND OFFICE OF THE DISTRICT OF COLUMBIA
RECORDS AND DEEDS DIVISION
1911
This map shows the land parcels in the District of Columbia, as recorded in the records and deeds division of the Land Office of the District of Columbia, as of the date of the recording of the deed.

RESOLUTION

WHEREAS, on the 7 day of February, 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 Tindalphia 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 conducive 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. M. [Signature]

Upon motion this meeting is continued and adjourned to the next Regular Session to be held on Friday, September 3, 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 Logan County Public Service District to include the following territory in Wyoming County:

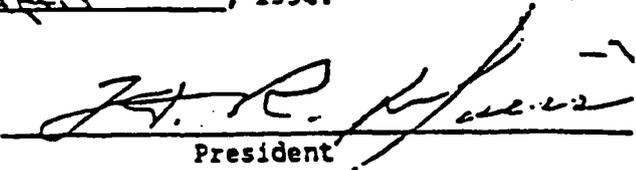
Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County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

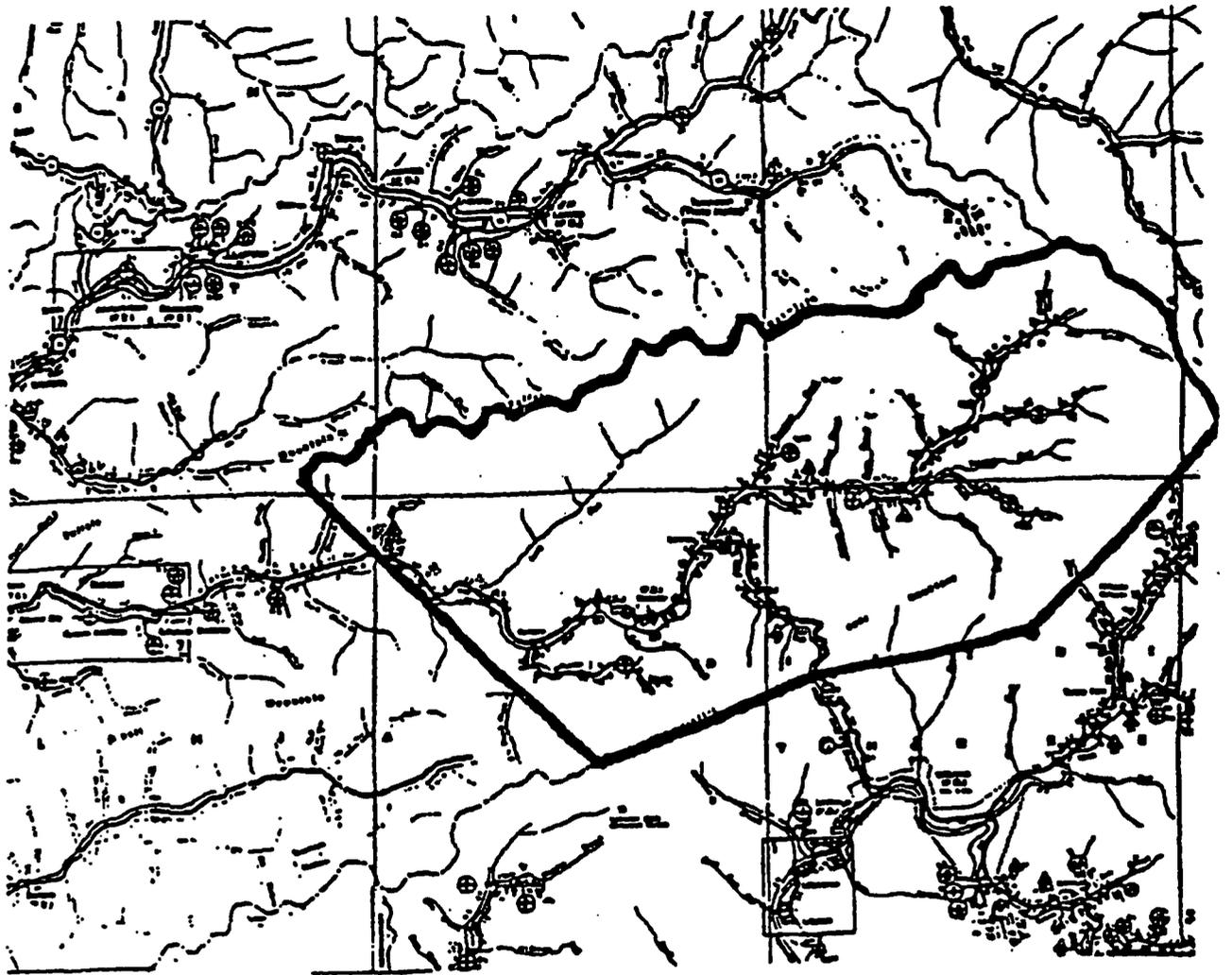
Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County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

DB 99-0 PWD

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: September 28, 1994

FINAL

10-18-94

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

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.

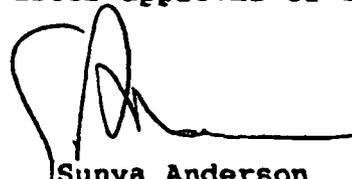
IT IS FURTHER ORDERED that this matter be removed from the Commission's docket of open cases.

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:

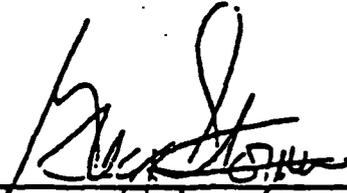
Beginning at a point at the intersection of the Lincoln, Wayne and Mingo County lines, thence, following said Lincoln and Mingo County line in a northeasternly direction approximately 34,850 feet, more or less to its intersection with the Logan County line; thence, following said Lincoln and Logan County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

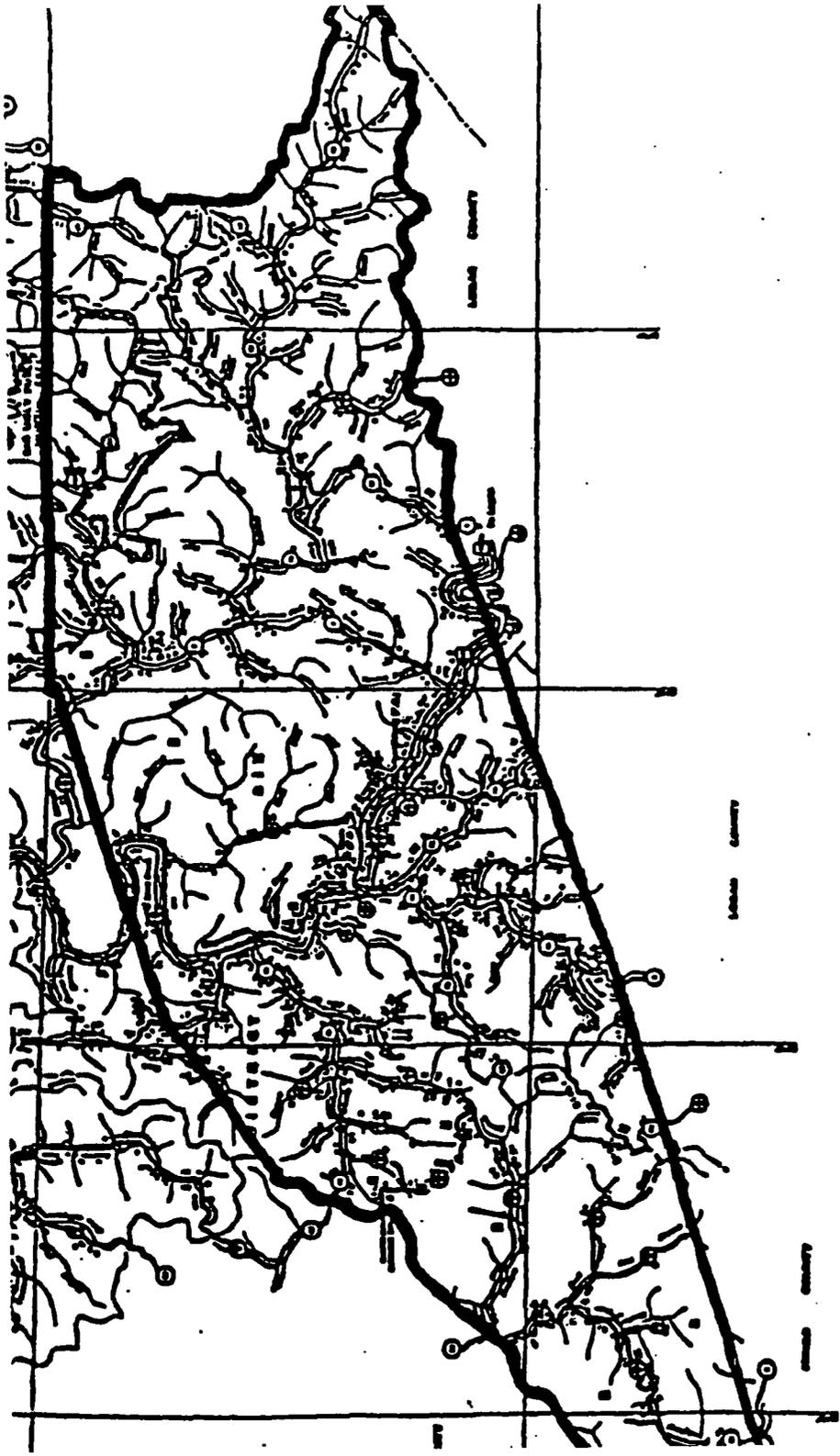
WHEREAS, the County Commission of Lincoln County, West Virginia believes that the inclusion of the afore-described territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Lincoln County;

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

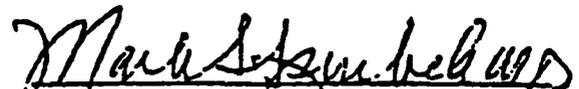
It is further ORDERED that the area or portion of Lincoln County to be included in the Logan County Public Service District is as follows:

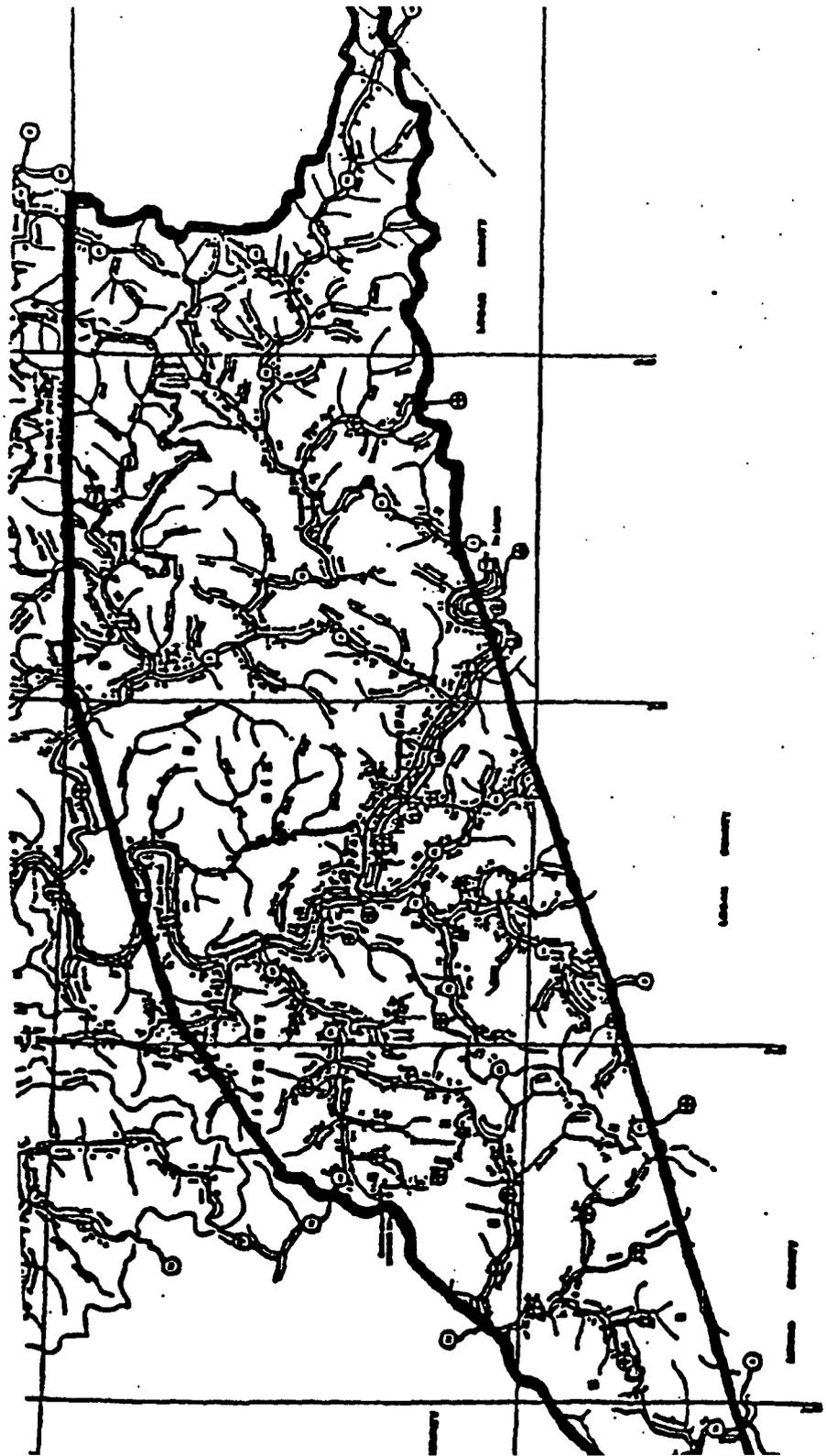
Beginning at a point at the intersection of the Lincoln, Wayne and Mingo County lines, thence, following said Lincoln and Mingo County line in a northeasternly direction approximately 34, 850 feet, more or less to its intersection with the

Logan County line; thence, following said Lincoln and Logan County line in a 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 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 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.

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, A.D., PRESIDENT
LOGAN COUNTY COMMISSION



ORIGINAL

ENTERED
OR GF Date

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

MMA

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 unopposed 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.

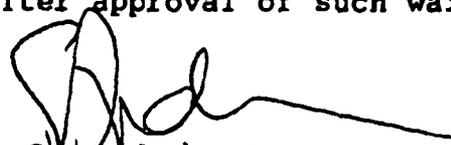
IT IS FURTHER ORDERED that these matters be removed from the Commission's docket of open cases.

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.



Surya Anderson
Administrative Law Judge

SA:mal

RESOLUTION

WHEREAS, on the 5th day of September, 1997, the Council Commission of Logan County, West Virginia adopted an ordinance proposing the enlargement of Logan County Public Service District to include the following territory in Mingo County as further 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.

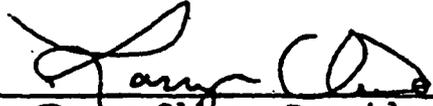
WHEREAS, previously on the 1st day of October, 1997, County Commission of Mingo County, West Virginia, adopted an order reducing the size of the Mingo County Public Service District deleting the above described territory in Mingo County as further identified on the attached map marked as Exhibit A from the Mingo County Public Service District. THEREFORE, the area of Mingo County to be included in Logan County Public Service District is not included within the boundaries of any existing Public Service District; and,

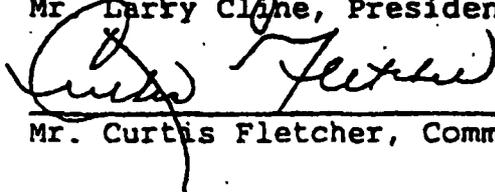
WHEREAS, the County Commission of Mingo County, West Virginia believes that the inclusion of the afore-described territory in the Logan County Public Service District will be conducive to the preservation of the public health, comfort and convenience of the residents of this area of Mingo County;

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

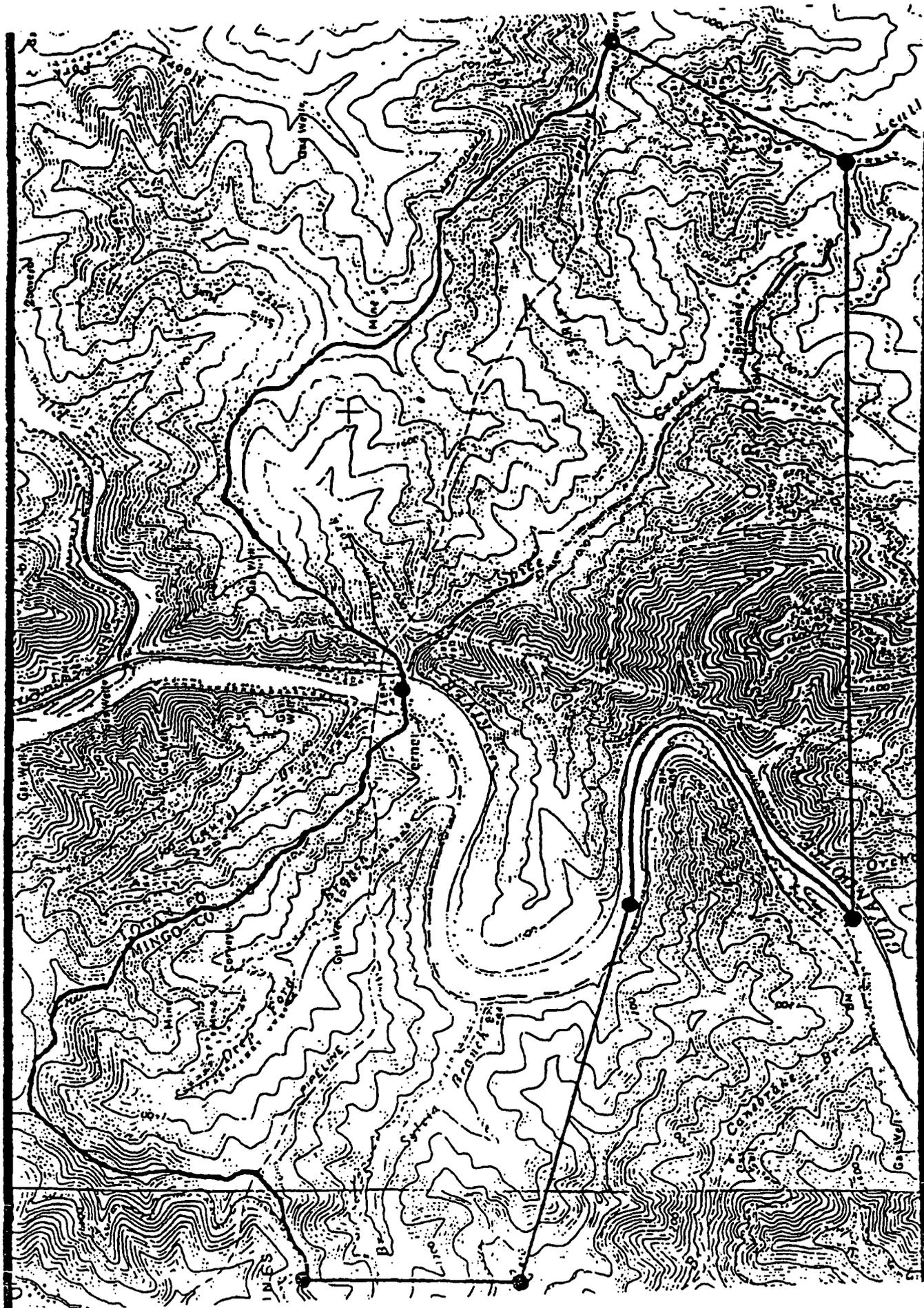
Dated this 1st day of October, 1997.

MINGO COUNTY COMMISSION


Mr. Larry Clone, President


Mr. Curtis Fletcher, Commissioner

Mr. Jim Hatfield, Commissioner



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 Code 1931, as amended, the County Commission of Logan County, West Virginia, upon its own motion entered an order proposing enlargement of Logan County Public Service District into the Verner and Spice Creek areas of Mingo County, West Virginia; and,

WHEREAS, the County Commission of Mingo County, West Virginia 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 Logan County Courthouse, Logan, West Virginia, held in accordance with 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 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 Verner and Spice Creek areas of Mingo 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 of 1931, as amended, to have all of the power 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 Mingo County to be included in the Logan County Public Service District is a

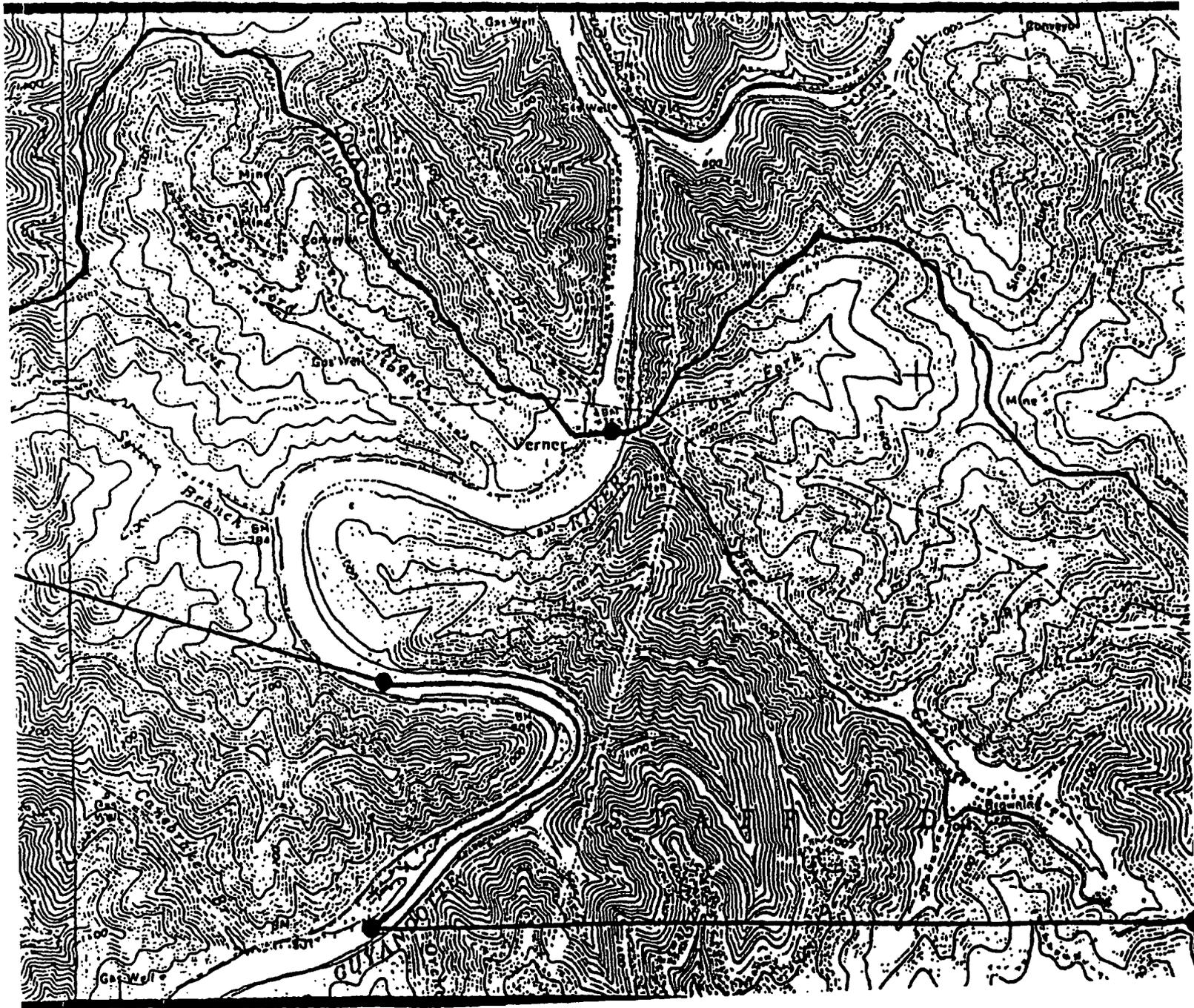
follows:

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 Order approving the enlargement being issued by the Public Service Commission of West Virginia.

ENTERED this 6th day of October, 1997.


Arthur E. Kirkendoll, President
LOGAN COUNTY COMMISSION



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: LOGAN COUNTY PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, being cognizant that a vacancy exists on the **LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD** due to the expiration of the term of James R. Jeffrey in January 2008, and upon the recommendation of the Logan County Public Service District Board, does, upon motion duly made, seconded and passed, unanimously appoint **PAUL HARDESTY** to fill the aforesaid vacancy for a term of six (6) years, said term to expire in January 2014.

ENTERED this the 8th day of February, 2008.



ARTHUR E. KIRKENDOLL, President

DANNY R. GODBY, Commissioner

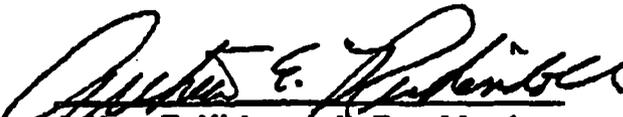


WILLIE D. AKERS, JR., Commissioner

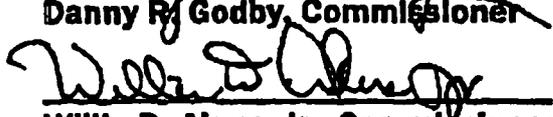
**IN THE COUNTY COMMISSION OF
LOGAN COUNTY, WEST VIRGINIA
IN RE: REAPPOINTMENT TO LOGAN COUNTY PSD**

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

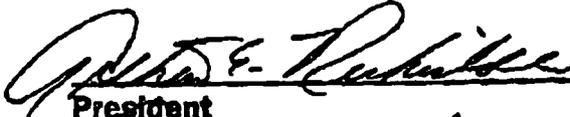

Willie D. Akers, Jr., Commissioner

**IN THE COUNTY COMMISSION OF
LOGAN COUNTY, WEST VIRGINIA**

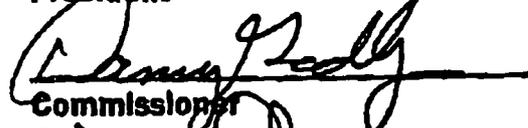
IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

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

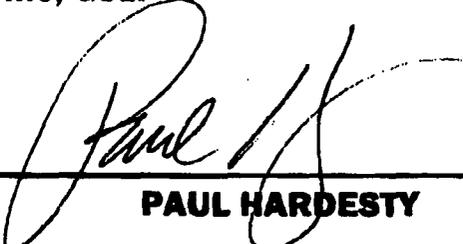
Post-It [®] Fax Note	7671	Date	1/8/02	Page #	20
To	ROCK ROBERTS	From			
Co./Dept	LC PSD	Co.	LCC		
Phone #		Phone #			
Fax #	752-0804	Fax #			

OATH OF OFFICE

STATE OF WEST VIRGINIA,

COUNTY OF LOGAN, TO-WIT:

I, PAUL HARDESTY, having been duly appointed to the office of Member of the Board of Directors of the Logan County Public Service District, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of West Virginia, and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgment, so help me, God.



PAUL HARDESTY

Taken, subscribed and sworn to before the undersigned Clerk of the County Commission of Logan County, West Virginia, this the 12th day of February, 2008.

**JOHN A. TURNER, CLERK OF THE
LOGAN COUNTY COMMISSION**

By: 

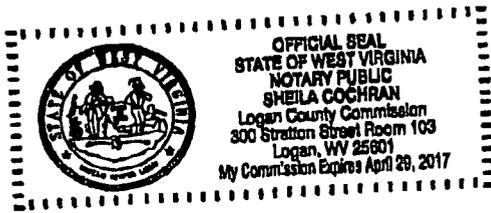
His: Deputy Clerk

SUBSCRIBED AND SWORN TO BEFORE ME

THIS 12 DAY OF Feb, 2008

BY Paul Hardesty

Sheila Cochran
NOTARY PUBLIC



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: 

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


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:

<u>News Media</u>	<u>Address</u>
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 alternate 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.

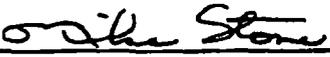
ARTICLE VII

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



The Logan County Public Service District held its Special Monthly Board Meeting on Tuesday, February 12, 2008, at 6:30 p.m., at the Logan County Public Service District Business Office, 41 Armory Road, Monaville, West Virginia.

Mr. Ben Lowe, Chair, called the meeting to order. See attached list of those in attendance.

ELECTION OF OFFICERS: Being that a new board member was appointed by the Logan County Commission, the election of the officers was discussed. A motion was made by Mr. Paul Hardesty to nominate Ben Lowe as Chair, seconded by Mr. Stone. Motion passed 3-0. A motion was made by Mr. Hardesty that Mike Stone remains as Secretary, seconded by Mr. Lowe. Motion passed 3-0. Mr. Stone made a motion to nominate Mr. Hardesty as Treasurer, seconded by Mr. Lowe. Motion passed 3-0.

The District Officers for the remaining 2008 until the first meeting of January, 2009 are:

Mr. Ben F. Lowe, Jr., Chair
Mr. Paul Hardesty, Treasurer
Mr. Mike Stone, Secretary

APPROVAL OF MINUTES: The Board reviewed the Minutes of the January 29, 2008, Board Meeting. A motion was made by Mr. Stone to approve the minutes as presented, seconded by Mr. Lowe. Mr. Hardesty stated to let the record reflect that he abstains from the vote. Motion passed 2-0.

CUSTOMER/PUBLIC PRESENTATIONS: Residents of Striker Fork were present at the meeting. Mr. Roberts reported that he is working on the Infrastructure Application. Mr. Roberts stated that the new application forms are available and the Infrastructure Council will email them to him tomorrow. Mr. Roberts stated that the District will be advertising for engineering services in the local newspaper tomorrow. Mr. Roberts stated that the proposals are due to be submitted to the District on March 12, 2008. Mr. Hardesty stated that he knew that the County Commission has met with the residents on numerous occasions. Linda Adkins stated that Mr. Kirkendall told her that a cover letter was sent to the Governor today. Ms. Adkins stated that Mr. Kirkendall had told her that he was not able to meet with the Governor on Friday. Ms. Adkins stated that Mr. Kirkendall is sending the letter to all the Delegates and the Governor today. Mr. Hardesty stated that they had had conversations with the Governor on an informal basis because the Governor had stated that his priorities are infrastructure being water and sewage. Mr. Hardesty stated that he knows the need. Mr. Roberts stated that the District will procure the engineering services which will take approximately two or three months.



ANNOUNCEMENTS: The next Regular Board Meeting is scheduled for Tuesday, February 26, 2008 at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

Mr. Roberts stated that the next Special Board Meeting is scheduled for Tuesday, March 11, 2008 at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

PROJECT IMPLEMENTATION:

Holden Water Project – Mr. Roberts reported the District has received the Public Service Commission's Certificate.

Mr. Roberts stated that Joel Nunes is working on the right-of-ways.

Mr. Roberts stated that he has given Mr. Walker the plat and property description for the big tank site today.

Mr. Roberts stated that he will begin sending the other information needed to the Infrastructure Council next week for the Authorization to Bid.

Phase IIA Wastewater Project - Mr. Roberts reported that the Bid Opening is scheduled for February 26, 2008 at 2:00 p.m. at the Logan County Public Service District office. Mr. Roberts stated that 11 contractors have picked up bid sets.

A discussion was held on the tax exempt legislation.

A discussion was held on the Oval Adams property issue.

North Fork Water Project – Mr. Roberts reported that the District is waiting on the Letter of Conditions from the Rural Utility Services. Mr. Roberts stated that the letter was sent to the State Director in Morgantown last Thursday.

Mr. Roberts stated that the Environmental Notice was sent to the Logan Banner to be published.

Mr. Roberts stated that this project should be ready to bid in about a month.



Anchor Road Water Project – Mr. Roberts reported that the design is continuing. Mr. Roberts stated that Randy Bolton of Stafford Consultants is trying to set up a meeting with the WVDOT on US 119 encroachment. Mr. Roberts stated that this project may cost approximately \$4,000,000 or more.

Other Projects – In regards to the Lake Branch/Lee Miller Road Water Project, Mr. Roberts reported that the material bid opening on this project is scheduled for tomorrow at 2:00 p.m.

In regards to the Upper Little Harts Creek/Marsh Fork Water Projects, Mr. Roberts stated that the engineering proposals are due on March 12, 2008.

In regards to the Huff Creek Water Project, Mr. Roberts stated that the District had previously authorized him to look into bidding out a skid steer. Mr. Roberts stated that he found out that Caterpillar has a contract with the State. Mr. Roberts requested authorization from the Board to purchase the skid steer off the State Contract. After a discussion, the Board authorized Mr. Roberts to proceed with the purchase.

SYSTEM OPERATIONS: Mr. Roberts and Mr. Baisden 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. Stone to approve the invoices as presented, seconded by Mr. Hardesty. Motion passed 3-0.

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

Eastern Wyoming Water Systems – Mr. Roberts stated that the next Eastern Wyoming Public Service District board meeting is scheduled for Tuesday, March 4, 2008.

In regards to the Itmann/Bud Mountain Water Project, Mr. Roberts reported that they received a split year \$1,500,000 Small Cities Block Grant.

In regards to the Itmann/Mullens connection, Mr. Roberts reported that the pump should be operational by the end of this week.

Mr. Roberts stated that he prepared a letter Monday requesting that the Public Service Commission review the District's rates.

Logan County Public Service District Minutes
February 12, 2008
Page 4 of 4



Other – Mr. Roberts presented the new Logan County PSD Water Tariff to the Board for review and signature.

A discussion was held on the Property Agreement between the Logan County Public Service District and the Logan County Commission prepared by Mr. Walker. Mr. Hardesty inquired as to how much property was taken. Mr. Roberts stated that it was approximately $\frac{3}{4}$ of an acre. Mr. Hardesty inquired as to where in the county would there be any property that the District could use. Mr. Roberts stated that the District would like to have something centrally located. Mr. Hardesty stated that the next time he was in town to meet with Mr. Kirkendall about the locations available.

EXECUTIVE SESSION: A motion was made by Mr. Hardesty to enter into executive session pursuant 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, or dismissal or compensation of a public officer or employee, seconded by Mr. Stone. Motion passed 3-0.

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

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT
February 12, 2008 Board Meeting
Attendance List

Name

Representing

Melinda Gullett

LCPSD

Rick Roberts

LCPSD

Linda Ashua

Striker Fork

David Perkins

Striker Fork

Paul

LCPSD

Paula Collier

Striker Fork

Renee Collier

Striker Fork

Renee Collier

Striker Fork

Jim Walker

Paul Lane R

LCPSD

Oliver Stone

LCPSD

William Barden

LCPSD

File



**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

February 12, 2008

Respectfully submitted,



Mr. Ben Lowe, Jr., Chair

Mr. Paul Hardesty, Treasurer



Mr. Mike Stone, 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 15th day of November, 2007.

CASE NO. 07-1348-PSD-ECN

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
a public utility

Application for a Certificate of Convenience and Necessity to construct a wastewater collection system to serve the Ellis Addition, Lintz Addition, Thompson Town and Hedgeview areas in Logan County.

COMMISSION ORDER

By this order, the Public Service Commission (Commission) grants the application for a certificate of convenience and necessity filed by the Logan County Public Service District (District) for the emergency project designated as such by the West Virginia Infrastructure and Jobs Development Council (WVIJDC) with conditions as set forth herein.

BACKGROUND

The District filed an Application for Certificate of Convenience and Necessity to construct a wastewater collection system to serve approximately 320 potential customers in the Ellis Addition, Lintz Addition, Thompson Town and Hedgeview areas in Logan County on July 20, 2007. The proposed project consists of the construction of approximately 23,900 feet of 21-inch and smaller diameter gravity pipe, 7,630 feet of 8-inch and smaller diameter forcemain, 158 manholes, one major pumping station, one duplex grinder pumping station, one simplex pumping station, one wastewater metering station, cleanouts, service laterals and other related appurtenances. Treatment will be provided by the District's Phase 1 Wastewater Treatment Plant.

The WVIJDC has designated this project an emergency project pursuant to *West Virginia Code* § 31-15A-2.

The estimated cost for the project is \$7,500,000 with financing provided by (i) a Small Cities Block Grant in the amount of \$1,500,000; (ii) a WVIJDC grant in the amount of \$1,500,000; and (iii) and a WVIJDC loan in the amount of \$4,500,000 at 0% interest for a term of 40 years.

The District filed a Motion to Waive Rule 42 Requirement on August 6, 2007, arguing that the project does not require an adjustment in the District's rates, therefore, a Rule 42 Exhibit is not necessary.

Staff filed a "Final Joint Staff Memorandum" (Staff Memorandum) on September 6, 2007, recommending approval of the District's application subject to certain conditions as noted in the Findings of Fact below. Staff also recommended approval of the District's proposed project funding and granting the District's motion to waive the Rule 42 Exhibit filing requirement.

The District responded to the Staff Memorandum on September 13, 2007, accepting the recommendations, but requesting one modification: that the Commission only require a reopening of the case and approval of the rates in Case No. 07-1206-PSD-42T if those rates are set below the District's initial rate request in that case. In the rate case, the District requested an across-the-board rate increase of 18%. The District reasoned that, if the rates in Case No. 07-1206-PSD-42T were set at the Staff recommended rates in that case, those rates would be adequate to support the project in the present case.

On October 5, 2007, Staff responded to the District's request by recommending the same rates in the present case that Staff recommended in Case No. 07-1206-PSD-42T. On October 15, 2007, the District filed a letter in support of Staff's October 5, 2007 memorandum.

On November 8, 2007, the District filed a copy of its National Pollutant Discharge Elimination System Permit (NPDES permit) modified for this project.

DISCUSSION

Upon review, the Commission concludes that the project is necessary and it will expand service and provide improvements to existing facilities. The Commission also concludes that the general public convenience will be served as the project is funded by (I) a Small Cities Block Grant in the amount of \$1,500,000; (ii) a WVIJDC grant in the amount of \$1,500,000; and (iii) a WVIJDC loan in the amount of \$4,500,000 with 0% interest rate for a period of forty years. Therefore, under the provisions of *West Virginia Code* § 24-2-11, the general public convenience and necessity will be served.

The District filed this application for a certificate of convenience and necessity with a request for a rate increase. The rates requested in this case were also requested by the District in Case No. 07-1206-PSD-42T. A Recommended Decision was entered in Case No. 07-1206-PSD-42T on October 16, 2007 (final November 6, 2007), approving Staff's recommended rates in that case for services rendered on and after November 30, 2007. Because the rates noticed and approved in Case No. 07-1206-PSD-42T are higher than the

rates the District requested in either the rate case or the current case, the Commission finds that the certificate may be approved without a rate increase in the present case.

The Commission concludes that it is appropriate to waive formal hearing on this application because notice of the project was properly published and the protest period expired without any protest being filed.

FINDINGS OF FACT

1. On July 20, 2007, the District filed with the Commission, pursuant to *West Virginia Code* § 24-2-11, an application, duly verified, for a certificate of convenience and necessity to construct a wastewater collection system to serve approximately 320 potential customers in the Ellis Addition, Lintz Addition, Thompson Town and Hedgeview areas in Logan County.

2. The District estimates that the project will cost \$7,500,000. Financing for the project includes (i) a Small Cities Block Grant in the amount of \$1,500,000; (ii) a WVIJDC grant in the amount of \$1,500,000; and (iii) a WVIJDC loan in the amount of \$4,500,000 with 0% interest rate for a period of forty years.

3. The WVIJDC has designated this project an emergency project pursuant to *West Virginia Code* § 31-15A-2.

4. Notice of Filing, including the right to protest or intervene, was published in *The Logan Banner* on August 8, 2007, as evidenced by the Affidavit of Publication filed by the District on August 21, 2007.

5. Staff recommended approval of the District's application subject to certain conditions as follows:

a. The District file a copy of the modified WV/NPDES permit as soon as it becomes available;

b. The District seek Commission approval prior to the District making any changes in the plans or scope of the project. Furthermore, if there are any changes in the rates to be charged associated with the project, the District seek the Commission's approval of those changes. If the final rates in the District's 42T rate case currently pending before the Commission (Case No. 07-1206-PSD-42T) are higher than the rates approved in this case, the District file to reopen this case and receive approval of the higher rates for the certificate case;

c. If the project cost changes but rates are not affected, the District file an affidavit executed by its certified public accountant verifying that the District's rates and charges are not affected;

d. The District provide a copy of the engineer's certified bid tabulations for each construction contract or vendor bid contract to be awarded for this project;

e. The District submit a copy of the "Certificate of Substantial Competition" issued for each construction contract associated with this project as soon as they become available; and

f. The District comply with all the applicable rules and regulations of the West Virginia Department of Transportation, Division of Highways ("DOH"), if the project requires that the District utilize any of the DOH's rights-of-way.

Additionally, Staff recommended approval of the proposed financing for the project, as noted above. Staff also recommended waiving the Rule 42T filing requirement in the present case.

6. The District filed a copy of the WV/NPDES permit on November 8, 2007.

CONCLUSIONS OF LAW

1. The District's project is necessary and will serve the general public convenience. Therefore, pursuant to *West Virginia Code* § 24-2-11 and *Sexton v. Public Service Commission*, 188 W.Va. 305, 423 S.E.2d 914 (1992), a certificate of convenience and necessity will be granted subject to the conditions below.

2. It is appropriate to waive the formal hearing on this application because notice of the project was properly published and the protest period expired without any protest being filed.

3. It is reasonable to approve the financing for the project more specifically described above.

ORDER

IT IS THEREFORE ORDERED that the District's application for a certificate of convenience and necessity to construct a wastewater collection system to serve approximately 320 potential customers in the Ellis Addition, Lintz Addition, Thompson Town and Hedgeview areas in Logan County is granted subject to the conditions described in Finding of Fact Number 5 above, with the exception of 5a with which the District has already complied.

IT IS FURTHER ORDERED that the project financing, consisting of (I) a Small Cities Block Grant in the amount of \$1,500,000; (ii) a WVIJDC grant in the amount of \$1,500,000; and (iii) a WVIJDC loan in the amount of \$4,500,000 with 0% interest rate for a period of forty years is hereby approved.

IT IS FURTHER ORDERED that the District seek Commission approval prior to the District making any changes in the plans or scope of the project. Furthermore, if there are any changes in the rates to be charged associated with the project, the District seek the Commission's approval of those changes.

IT IS FURTHER ORDERED that if the project cost changes, but rates are not affected, the District file an affidavit signed by a Certified Public Accountant certifying that rates are not affected.

IT IS FURTHER ORDERED that the District shall submit, within 10 days of issuance, a copy of the engineer's certified bid tabulations for each construction contract or vendor bid contract to be awarded for this project

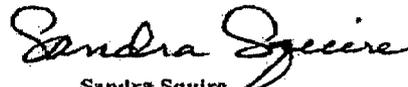
IT IS FURTHER ORDERED that the District shall submit, within 10 days of issuance, a copy of the "Certificate of Substantial Completion" issued for each construction contract upon completion of construction.

IT IS FURTHER ORDERED that the District shall comply with all the applicable rules and regulations of the West Virginia Department of Transportation, Division of Highways, if the project requires that the District utilize any of that division's rights-of-way.

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 serve a copy of this Order upon all parties of record by **facsimile** and United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste:


Sandra Squire
Executive Secretary

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 9th day of November, 2007.

CASE NO. 07-2188-PWD-ECN

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
Logan, Logan County.

Application for a certificate of convenience and necessity to construct a water distribution system to serve the Holden, Whitman Junction, Trace Junction, Beebe, Frogtown, Sycamore, Diamond, Davis, Sulphur Springs and surrounding areas in Logan County.

NOTICE OF FILING

WHEREAS, on November 9, 2007, the Logan County Public Service District, filed an application, duly verified, for a Certificate to construct a water distribution system to serve the Holden, Whitman Junction, Trace Junction, Beebe, Frogtown, Sycamore, Diamond, Davis, Sulphur Springs and surrounding areas in Logan County. The application is on file with and available for public inspection at the Public Service Commission, 201 Brooks Street, in Charleston, West Virginia.

WHEREAS, the Logan County Public Service District (Applicant) estimates that construction will cost approximately \$7,600,000.00. It is proposed that the construction will be financed with an Abandoned Mine Lands Grant of \$5,700,000.00 and a West Virginia Infrastructure Fund Loan in the amount of \$1,900,000.00.

WHEREAS, the utility anticipates charging the following water rates for its customers:

RATES

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
All over	300,000	gallons used per month	\$3.13 per 1,000 gallons

MINIMUM CHARGE

5/8	inch meter	\$ 16.93 per month
3/4	inch meter	\$ 25.40 per month
1	inch meter	\$ 42.34 per month
1 1/4	inch meter	\$ 61.82 per month
1 1/2	inch meter	\$ 84.68 per month
2	inch meter	\$ 135.52 per month
3	inch meter	\$ 254.06 per month
4	inch meter	\$ 423.44 per month
6	inch meter	\$ 848.47 per month
8	inch meter	\$1,358.85 per month

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

Equivalent to 4,500 gallons of water usage \$ 37.19 per month

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

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

A tap fee of \$100.00 will be charged to customers applying for service before construction is completed adjacent to the customer's premises in connection with a certificate proceeding before the Commission. This pre-construction tap fee will be invalid after the completion adjacent to an applicant's premises that is associated with a certificate proceeding.

RECONNECTION CHARGE \$20.00

To be charged whenever the supply of water is turned off for violation of rules, non-payment of bills, or fraudulent use of water.

RETURNED CHECK CHARGE

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

LEAK ADJUSTMENT INCREMENT

\$0.97 per 1000 gallons is to be used when a bill reflects unusual consumption which can be attributed to eligible water leakage on customer's side of the meter. This rate shall be applied to all such consumption above the customer's historical average usage.

These rates are as approved by the Public Service Commission on September 14, 2006, in

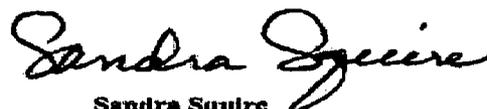
Case No. 06-0701-PWD-PC, and do not represent an increase in rates due to this project.

Because the District currently provides service to the entire project area, the proposed rates and charges will not produce any additional revenue. Operation and maintenance expense savings and a relocation of debt service are 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 (increases or decreases) by the Public Service Commission in its review of this filing. The District's resale customers include Mingo County Public Service District and the Town of Chapmanville.

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that the Logan County Public Service District give notice of the filing of said application, by publishing a copy of this order once in a newspaper duly qualified by the Secretary of State, published and of general circulation in Logan, Boone, Lincoln, Mingo and Wyoming Counties, making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to protest or intervene should file a written protest or notice of intervention within 30 days following the date of this publication unless otherwise modified by Commission order. Failure to timely protest or intervene can affect your right to protest aspects of this certificate case, including any associated rate increases, or to participate in future proceedings. All protests or requests to intervene should briefly state the reason for the protest or intervention. Requests to intervene must comply with the Commission's rules on intervention set forth in the Commission's Rules of Practice and Procedure. All protests and interventions should be addressed to Sandra Squire, Executive Secretary, P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said thirty (30) day period, the Commission may waive formal hearing and grant the application based on the evidence submitted with said application and its review thereof.

A True Copy, Teste:


Sandra Squire
Executive Secretary

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West Virginia Infrastructure & Jobs Development Council

Public Members:
Kenneth Lowe, Jr.
Shepherdstown
Dwight Calhoun
Petersburg
Dave McComas
Prichard
Ron Justice
Morgantown

300 Summers Street, Suite 980
Charleston, West Virginia 25301
Telephone: (304) 558-4607
Facsimile: (304) 558-4609

Jefferson E. Brady, PE
Executive Director

Jefferson.Brady@verizon.net

September 21, 2007

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

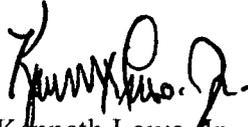
Re: Binding Commitment Letter
Wastewater Project
Project 2005S-862 Emergency Status

Dear Mr. Roberts:

The West Virginia Infrastructure and Jobs Development Council (the "Council") has determined that the Project is technically feasible within the guidelines of the Infrastructure and Jobs Development Act. The Council reviewed the Logan County Public Service District's (the "District") request for a revised binding commitment to the District for an additional Infrastructure Fund loan (0%, 40 years) of \$1,500,000 and an Infrastructure Fund grant of \$1,500,000 to complete the funding for its wastewater project. At the July 11, 2007 Council meeting the Council voted to revise the binding commitment as shown on the attached revised Schedule A and the attached revised project schedule to cover the project cost overrun. All other conditions of the Council's August 8, 2005 binding commitment remain in effect.

If the District has any questions regarding this commitment, please contact Jeff Brady at the above-referenced telephone number.

Sincerely,



Kenneth Lowe, Jr.

cc: Mike Johnson, DEP
Samme Gee, Jackson & Kelly
Stafford Consultants, Inc.

NOTE: This letter is sent in triplicate. Please acknowledge receipt on two copies and immediately return to the Infrastructure Council.

Logan County Public Service District

By: _____

Its: _____

Date: _____

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 9, 2008

Attest:

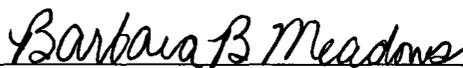

Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

By: 
Its: Executive Director
Date: April 9, 2008

Attest:


Its: Secretary-Treasurer

1210/330

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 firm¹ 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, ²the 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. _____

¹If 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".

²If 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 _____

<u>Item</u>	<u>Current Month</u>	<u>Total Year To Date</u>	<u>Budget Year To Date</u>	<u>Budget Year To Date Minus Total Year To Date</u>
1. Gross Revenues	_____	_____	_____	_____
2. Operating Expenses	_____	_____	_____	_____
3. Bond Payments:				
<u>Type of Issue</u>	_____	_____	_____	_____
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 \$4,500,000
Purchase Price of Local Bonds \$4,500,000

The Local Bonds shall bear no interest. Commencing September 1, 2009, 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. Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program), dated December 12, 2002, issued in the original aggregate principal amount of \$5,328,940.
2. Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated December 12, 2002, issued in the original aggregate principal amount of \$2,190,000.
3. Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture), dated December 12, 2002, issued in the original aggregate principal amount of \$300,000.

\$4,500,000

Logan County Public Service District
0% Interest Rate, 40 Years from Closing Date
Closing Date: April 9, 2008

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
06/01/2008	-	-	-
09/01/2008	-	-	-
12/01/2008	-	-	-
03/01/2009	-	-	-
06/01/2009	-	-	-
09/01/2009	29,033.00	-	29,033.00
12/01/2009	29,033.00	-	29,033.00
03/01/2010	29,033.00	-	29,033.00
06/01/2010	29,033.00	-	29,033.00
09/01/2010	29,033.00	-	29,033.00
12/01/2010	29,033.00	-	29,033.00
03/01/2011	29,033.00	-	29,033.00
06/01/2011	29,033.00	-	29,033.00
09/01/2011	29,033.00	-	29,033.00
12/01/2011	29,033.00	-	29,033.00
03/01/2012	29,033.00	-	29,033.00
06/01/2012	29,033.00	-	29,033.00
09/01/2012	29,033.00	-	29,033.00
12/01/2012	29,033.00	-	29,033.00
03/01/2013	29,033.00	-	29,033.00
06/01/2013	29,033.00	-	29,033.00
09/01/2013	29,033.00	-	29,033.00
12/01/2013	29,033.00	-	29,033.00
03/01/2014	29,033.00	-	29,033.00
06/01/2014	29,033.00	-	29,033.00
09/01/2014	29,033.00	-	29,033.00
12/01/2014	29,033.00	-	29,033.00
03/01/2015	29,033.00	-	29,033.00
06/01/2015	29,033.00	-	29,033.00
09/01/2015	29,033.00	-	29,033.00
12/01/2015	29,033.00	-	29,033.00
03/01/2016	29,033.00	-	29,033.00
06/01/2016	29,033.00	-	29,033.00
09/01/2016	29,033.00	-	29,033.00
12/01/2016	29,033.00	-	29,033.00
03/01/2017	29,033.00	-	29,033.00
06/01/2017	29,033.00	-	29,033.00
09/01/2017	29,033.00	-	29,033.00
12/01/2017	29,033.00	-	29,033.00
03/01/2018	29,033.00	-	29,033.00
06/01/2018	29,033.00	-	29,033.00
09/01/2018	29,033.00	-	29,033.00
12/01/2018	29,033.00	-	29,033.00
03/01/2019	29,033.00	-	29,033.00

\$4,500,000

Logan County Public Service District
0% Interest Rate, 40 Years from Closing Date
Closing Date: April 9, 2008

Debt Service Schedule

Part 2 of 4

Date	Principal	Coupon	Total P+I
06/01/2019	29,033.00	-	29,033.00
09/01/2019	29,032.00	-	29,032.00
12/01/2019	29,032.00	-	29,032.00
03/01/2020	29,032.00	-	29,032.00
06/01/2020	29,032.00	-	29,032.00
09/01/2020	29,032.00	-	29,032.00
12/01/2020	29,032.00	-	29,032.00
03/01/2021	29,032.00	-	29,032.00
06/01/2021	29,032.00	-	29,032.00
09/01/2021	29,032.00	-	29,032.00
12/01/2021	29,032.00	-	29,032.00
03/01/2022	29,032.00	-	29,032.00
06/01/2022	29,032.00	-	29,032.00
09/01/2022	29,032.00	-	29,032.00
12/01/2022	29,032.00	-	29,032.00
03/01/2023	29,032.00	-	29,032.00
06/01/2023	29,032.00	-	29,032.00
09/01/2023	29,032.00	-	29,032.00
12/01/2023	29,032.00	-	29,032.00
03/01/2024	29,032.00	-	29,032.00
06/01/2024	29,032.00	-	29,032.00
09/01/2024	29,032.00	-	29,032.00
12/01/2024	29,032.00	-	29,032.00
03/01/2025	29,032.00	-	29,032.00
06/01/2025	29,032.00	-	29,032.00
09/01/2025	29,032.00	-	29,032.00
12/01/2025	29,032.00	-	29,032.00
03/01/2026	29,032.00	-	29,032.00
06/01/2026	29,032.00	-	29,032.00
09/01/2026	29,032.00	-	29,032.00
12/01/2026	29,032.00	-	29,032.00
03/01/2027	29,032.00	-	29,032.00
06/01/2027	29,032.00	-	29,032.00
09/01/2027	29,032.00	-	29,032.00
12/01/2027	29,032.00	-	29,032.00
03/01/2028	29,032.00	-	29,032.00
06/01/2028	29,032.00	-	29,032.00
09/01/2028	29,032.00	-	29,032.00
12/01/2028	29,032.00	-	29,032.00
03/01/2029	29,032.00	-	29,032.00
06/01/2029	29,032.00	-	29,032.00
09/01/2029	29,032.00	-	29,032.00
12/01/2029	29,032.00	-	29,032.00
03/01/2030	29,032.00	-	29,032.00

\$4,500,000

Logan County Public Service District
0% Interest Rate, 40 Years from Closing Date
Closing Date: April 9, 2008

Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
06/01/2030	29,032.00	-	29,032.00
09/01/2030	29,032.00	-	29,032.00
12/01/2030	29,032.00	-	29,032.00
03/01/2031	29,032.00	-	29,032.00
06/01/2031	29,032.00	-	29,032.00
09/01/2031	29,032.00	-	29,032.00
12/01/2031	29,032.00	-	29,032.00
03/01/2032	29,032.00	-	29,032.00
06/01/2032	29,032.00	-	29,032.00
09/01/2032	29,032.00	-	29,032.00
12/01/2032	29,032.00	-	29,032.00
03/01/2033	29,032.00	-	29,032.00
06/01/2033	29,032.00	-	29,032.00
09/01/2033	29,032.00	-	29,032.00
12/01/2033	29,032.00	-	29,032.00
03/01/2034	29,032.00	-	29,032.00
06/01/2034	29,032.00	-	29,032.00
09/01/2034	29,032.00	-	29,032.00
12/01/2034	29,032.00	-	29,032.00
03/01/2035	29,032.00	-	29,032.00
06/01/2035	29,032.00	-	29,032.00
09/01/2035	29,032.00	-	29,032.00
12/01/2035	29,032.00	-	29,032.00
03/01/2036	29,032.00	-	29,032.00
06/01/2036	29,032.00	-	29,032.00
09/01/2036	29,032.00	-	29,032.00
12/01/2036	29,032.00	-	29,032.00
03/01/2037	29,032.00	-	29,032.00
06/01/2037	29,032.00	-	29,032.00
09/01/2037	29,032.00	-	29,032.00
12/01/2037	29,032.00	-	29,032.00
03/01/2038	29,032.00	-	29,032.00
06/01/2038	29,032.00	-	29,032.00
09/01/2038	29,032.00	-	29,032.00
12/01/2038	29,032.00	-	29,032.00
03/01/2039	29,032.00	-	29,032.00
06/01/2039	29,032.00	-	29,032.00
09/01/2039	29,032.00	-	29,032.00
12/01/2039	29,032.00	-	29,032.00
03/01/2040	29,032.00	-	29,032.00
06/01/2040	29,032.00	-	29,032.00
09/01/2040	29,032.00	-	29,032.00
12/01/2040	29,032.00	-	29,032.00
03/01/2041	29,032.00	-	29,032.00

\$4,500,000

**Logan County Public Service District
0% Interest Rate, 40 Years from Closing Date
Closing Date: April 9, 2008**

Debt Service Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
06/01/2041	29,032.00	-	29,032.00
09/01/2041	29,032.00	-	29,032.00
12/01/2041	29,032.00	-	29,032.00
03/01/2042	29,032.00	-	29,032.00
06/01/2042	29,032.00	-	29,032.00
09/01/2042	29,032.00	-	29,032.00
12/01/2042	29,032.00	-	29,032.00
03/01/2043	29,032.00	-	29,032.00
06/01/2043	29,032.00	-	29,032.00
09/01/2043	29,032.00	-	29,032.00
12/01/2043	29,032.00	-	29,032.00
03/01/2044	29,032.00	-	29,032.00
06/01/2044	29,032.00	-	29,032.00
09/01/2044	29,032.00	-	29,032.00
12/01/2044	29,032.00	-	29,032.00
03/01/2045	29,032.00	-	29,032.00
06/01/2045	29,032.00	-	29,032.00
09/01/2045	29,032.00	-	29,032.00
12/01/2045	29,032.00	-	29,032.00
03/01/2046	29,032.00	-	29,032.00
06/01/2046	29,032.00	-	29,032.00
09/01/2046	29,032.00	-	29,032.00
12/01/2046	29,032.00	-	29,032.00
03/01/2047	29,032.00	-	29,032.00
06/01/2047	29,032.00	-	29,032.00
09/01/2047	29,032.00	-	29,032.00
12/01/2047	29,032.00	-	29,032.00
03/01/2048	29,032.00	-	29,032.00
Total	\$4,500,000.00	-	\$4,500,000.00

Yield Statistics

Bond Year Dollars	\$92,911.93
Average Life	20.647 Years
Average Coupon	-
Net Interest Cost (NIC)	-
True Interest Cost (TIC)	1.11E-10
Bond Yield for Arbitrage Purposes	1.11E-10
All Inclusive Cost (AIC)	1.11E-10

IRS Form 8038

Net Interest Cost	-
Weighted Average Maturity	20.647 Years

**LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS,
SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND)**

2.4

BOND RESOLUTION

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LOGAN COUNTY PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE PREPAYMENT OF THE SEWERAGE SYSTEM DESIGN NOTES, SERIES 2005 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 SEWER 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 \$4,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2008 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, RATIFYING AND CONFIRMING 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. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the “Bond Legislation”) is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the “Act”), and other applicable provisions of law.

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

A. Logan County Public Service District (the “Issuer”) is 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.

B. The Issuer presently owns and operates a public sewerage system. However, it is deemed necessary and desirable for the health, safety, advantage, convenience and welfare of the inhabitants of the Issuer that there be acquired and constructed certain improvements and extensions to the existing public sewer facilities of the Issuer, consisting of the construction of approximately 23,900 feet of 21-inch and smaller diameter gravity pipes, 7,630 feet of 8-inch and smaller diameter forcemain, 158 manholes, one major pumping station, one duplex grinder pumping station, one simplex pumping station, one wastewater metering station, clean outs, service laterals and other related appurtenances, together with all appurtenant facilities (collectively, the “Project”), which constitute public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (the existing public sewer facilities of the Issuer, the Project and any further improvements thereto or extensions thereof are herein called the “System”), in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The Issuer has heretofore issued its Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund), dated November 17, 2005, in the original principal amount of \$154,000 (the “Notes”), to temporarily finance a portion of the costs of design of the Project. The Notes are secured by a first lien on 1) the proceeds of any grants (other than grants from the West Virginia Infrastructure Fund) received by the Issuer for the System; 2) the proceeds of any revenue bonds, refunding bonds or other obligations of the Issuer, issued subsequent to the issuance of the Notes; and 3) Surplus Revenues, if any. The Issuer hereby determines that it is in its best interest to pay the entire outstanding principal of and all accrued interest and administrative fees on the Notes in full with proceeds of the Series 2008 A Bonds (hereinafter defined) on the date of issuance thereof.

D. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project and the costs of prepayment the Notes through the issuance of its revenue bonds to the West Virginia Water Development Authority (the “Authority”), in connection with the West Virginia Infrastructure Fund administered by the Authority pursuant to the Act.

E. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than \$4,500,000, in one series, the Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than \$4,500,000 (the "Series 2008 A Bonds"), to permanently finance a portion of the costs of acquisition and construction of the Project and to pay the Notes in full. The remaining costs of the Project shall be funded from the sources set forth in Section 2.01 hereof. Such costs shall be deemed to include the cost 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, upon the Series 2008 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 Reserve Accounts (as hereinafter defined); the costs of prepayment the 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, including the SRF Administrative Fee (as hereinafter defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2008 A Bonds and such other expenses as may be necessary or incidental to the financing herein authorized, the acquisition or construction of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2008 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

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

G. It is in the best interests of the Issuer that the Series 2008 A Bonds be sold to the Authority pursuant to the terms and provisions of a loan agreement by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), both loan agreements in form satisfactory to the respective parties (collectively, the "Loan Agreement"), approved hereby if not previously approved by resolution of the Issuer.

H. The following outstanding bonds of the Issuer have a first lien on the Net Revenues of the System: (i) Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program), dated December 12, 2002, issued in the original aggregate principal amount of \$5,328,940; (ii) Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated December 12, 2002, issued in the original aggregate principal amount of \$2,190,000; and (iii) Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture), dated December 12, 2002, issued in the original aggregate principal amount of \$300,000 (collectively, the "Prior Bonds").

The Series 2008 A Bonds shall be issued on a parity with the Prior Bonds, with respect to liens, pledge and source of and security for payment and in all other respects. Prior to the issuance of the Series 2008 A Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds have been met; and (ii) the written consent of the Registered Owner of the Prior Bonds to the issuance of the Series 2008 A Bonds on a parity with the Prior Bonds. Following the prepayment of the Notes, other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

I. The estimated revenues to be derived in each year following completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest, if any, on the Series 2008 A Bonds and the Prior Bonds and all funds and accounts and other payments provided for herein.

J. The Issuer has complied with all requirements of West Virginia law and the Loan Agreement relating to the authorization of the acquisition, construction and operation of the Project and the System, the prepayment of the Notes and the issuance of the Series 2008 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the Project and the financing thereof by the Council and the obtaining of a certificate of public convenience and necessity and approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia (the "PSC") by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2008 A Bonds or such final order will not be subject to appeal or rehearing.

K. The Project has been reviewed and determined to be technically and financially feasible by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2008 A Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such 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 Series 2008 A Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

“Act” means, collectively, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

“Authority” means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2008 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 Chairperson duly elected by the Governing Body.

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

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

“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, the Series 2008 A Bonds, the Prior Bonds and any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

“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 2008 A Bonds for all or a portion of the proceeds of the Series 2008 A Bonds.

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

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

“Consulting Engineers” means 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 or portion thereof in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended; provided however, that the Consulting Engineers shall not be a regular, full-time employee of the State, or any of its agencies, commissions, or political subdivisions.

“Costs” or “Costs of the Project” means those costs described in Section 1.02E hereof to be a part of the cost of acquisition and construction of the Project and the cost of prepayment the Notes.

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

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

“Depository Bank” means the bank 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 of the FDIC.

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

“Governing Body” or “Board” means the public service board of the Issuer, as it may now or hereafter be constituted.

“Government” means the United States of America, United States Department of Agriculture, Rural Utilities Service.

“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.

“Grants” means all moneys received by the Issuer on account of any Grant for the Project.

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

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

“Independent Certified Public Accountants” means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

“Investment Property” means:

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

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

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

“Issuer” means 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, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

“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 2008 A Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

“Managing Engineer” means the Managing Engineer of the Issuer or any successor thereto.

“Net Proceeds” means the face amount of the Series 2008 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2008 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.

“Notes” means the Issuer’s Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund), dated November 17, 2005, issued in the original aggregate principal amount of \$154,000.

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

“Outstanding,” when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered, except (i) any Bond 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

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Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Registered Owners, any Bonds registered to the Issuer.

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

“Paying Agent” means the Commission or other entity designated as such for the Series 2008 A Bonds in the Supplemental Resolution.

“Prior Bonds” means, collectively, (i) Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program), dated December 12, 2002, issued in the original aggregate principal amount of \$5,328,940; (ii) Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated December 12, 2002, issued in the original aggregate principal amount of \$2,190,000; and (iii) Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture), dated December 12, 2002, issued in the original aggregate principal amount of \$300,000.

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

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

“Project” means the Project as described in Section 1.02B hereof.

“PSC” means the Public Service Commission of West Virginia and any successor 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 acquire and 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) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and

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

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

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

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

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

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

(h) The West Virginia “consolidated fund” managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the Code of West Virginia, 1931, as amended; and

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

“Registered Owner” 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.

“Registrar” means the Bond Registrar.

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

“Renewal and Replacement Fund” means the Renewal and Replacement Fund created by the Prior Resolutions and continued by Section 5.01 hereof.

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

“Reserve Requirements” means, collectively, the respective amounts required to be on deposit in the Reserve Accounts.

“Revenue Fund” means the Revenue Fund created by the Prior Resolutions and continued by Section 5.01 hereof.

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

“Series 2008 A Bonds Construction Trust Fund” means the Series 2008 A Bonds Construction Trust Fund created by Section 5.01 hereof.

“Series 2008 A Bonds Reserve Account” means the Series 2008 A Bonds Reserve Account created by Section 5.02 hereof.

“Series 2008 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 2008 A Bonds in the then current or any succeeding year.

“Series 2008 A Bonds Sinking Fund” means the Series 2008 A Bonds Sinking Fund created by Section 5.02 hereof.

“Series 2008 A Bonds” means the Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

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

“State” means the State of West Virginia.

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

“Surplus Revenues” means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds or any other obligations of the Issuer, including, without limitation, the Sinking Funds, the Reserve Accounts and the Renewal and Replacement Fund.

“System” means the complete public service properties of the Issuer for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for 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.

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Additional terms and phrases are defined in this Resolution as they are used.

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.

Accounting terms not specifically defined herein shall be given the meaning in accordance with generally accepted accounting principles.

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

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 neuter 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.

ARTICLE II

AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT AND PREPAYMENT OF THE NOTES

Section 2.01. Authorization of Acquisition and Construction of the Project and Prepayment of the Notes. There are hereby authorized and ordered the acquisition and construction of the Project and the prepayment of the Notes, at an estimated cost of \$7,500,000, 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 2008 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 financing plan submitted to the Authority and the Council.

The cost of the Project is estimated to be \$7,500,000, of which approximately \$4,500,000 will be obtained from proceeds of the Series 2008 A Bonds, approximately \$1,500,000 will be obtained from a Small Cities Block Grant, and approximately \$1,500,000 will be obtained from a grant by the West Virginia Infrastructure Fund.

The cost of prepayment the Notes is estimated to be \$146,300, which will be obtained from the proceeds of the Series 2008 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 2008 A Bonds, funding the respective Reserve Accounts for the Series 2008 A Bonds, paying Costs of the Project not otherwise provided for, paying the costs of prepayment the Notes, and paying certain costs of issuance of the Series 2008 A Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2008 A Bonds of the Issuer. The Series 2008 A Bonds shall be issued in a single bond, designated as “Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund),” in the principal amount of not more than \$4,500,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The proceeds of the Series 2008 A Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalizing interest on the Series 2008 A Bonds, if any, shall be deposited in or credited to the Series 2008 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 2008 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 a Supplemental Resolution or as specifically provided in the Loan Agreement. The Series 2008 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 on the Series 2008 A Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Series 2008 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 thereto, representing the aggregate principal amount of the Series 2008 A Bonds. The Series 2008 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully

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registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. 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 2008 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 the Series 2008 A Bonds shall cease to be such officer of the Issuer before the Series 2008 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2008 A 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 2008 A Bonds shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.10 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 Bond Legislation. The Certificate of Authentication and Registration on any such Bonds 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 such Bonds issued hereunder.

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

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

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

In all cases in which the privilege of exchanging Series 2008 A Bonds or transferring the registered Series 2008 A Bonds is exercised, all such Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All such Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of such Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on such Bonds or, in the case of any proposed redemption of such 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 2008 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

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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 satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Series 2008 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. The payment of the debt service of the Series 2008 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System on parity with the Lien of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2008 A Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2008 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2008 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 such Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of each series of the Series 2008 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 SERIES 2008 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 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__.

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This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest and administrative fees on the Issuer's Sewerage System Design Notes, Series 2006 A (West Virginia Infrastructure Fund) (the "Notes"), heretofore issued to pay the costs of design of the Project (hereinafter defined); (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewer 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 "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S (I) SEWER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,328,940; (II) SEWER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,190,000; AND (III) SEWER REVENUE BONDS, SERIES 2002 C (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$300,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the 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 Bond Legislation for this Bond (the "Series 2008 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

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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 2008 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount 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 2008 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 Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

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

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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 at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

IN WITNESS WHEREOF, 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

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(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: _____, 200_.

_____, as Registrar

Authorized Officer

(Form of)

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(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	\$

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EXHIBIT B

DEBT SERVICE SCHEDULE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____ Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

In the presence of:

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreement. The Series 2008 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, approved, ratified and confirmed. The Loan Agreement, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Bond Legislation.

Section 3.12. Filing of Amended Schedule. Upon completion of the acquisition and construction of the Project, the Issuer will file with the Authority and the Council, a schedule, the forms of which will be provided by the Council, setting forth the actual costs of the Project and sources of funds therefor.

ARTICLE IV

[RESERVED]

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

- (1) Revenue Fund (established by the Prior Resolutions);
- (2) Renewal and Replacement Fund (established by the Prior Resolutions); and
- (3) Series 2008 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 2008 A Bonds Sinking Fund; and
- (2) Series 2008 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 Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order of priority:

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

(2) The Issuer shall next, each month, from the moneys in the Revenue Fund, make the interest payments on the Prior Bonds in the amounts and on the dates required by the Prior Resolutions.

(3) The Issuer shall next, on the first day of each month, from the Revenue Fund and simultaneously, (i) make the principal payments of the Prior Bonds in the amounts and on the dates required by the Prior Resolutions; and (ii) remit to the Commission, on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2008 A Bonds, for deposit in the Series 2008 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2008 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 2008 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, each month, from the moneys in the Revenue Fund, (i) make the reserve account payments into the Reserve Accounts for the Prior Bonds in the amounts and on the dates required by the Prior Resolutions; and (ii) remit to the Commission, on the first day of each month, commencing 3 months prior to the first date of payment of principal of the Series 2008 A Bonds, if not fully funded upon the issuance of the Series 2008 A Bonds, for deposit in the Series 2008 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2008 A Bonds Reserve Requirement, until the amount in the Series 2008 A Bonds Reserve Account equals the Series 2008 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2008 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 2008 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, commencing 3 months after the completion of construction of the Project, as certified by the Consulting Engineers, transfer from the Revenue Fund and 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, 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, repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Account, except

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to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof, shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 2008 A Bonds Sinking Funds shall be used only for the purposes of paying principal of and interest, if any, on the Series 2008 A Bonds as the same shall become due. Moneys in the Series 2008 A Bonds Reserve Accounts shall be used only for the purposes of paying principal of and interest, if any, on the Series 2008 A Bonds as the same shall come due, when other moneys in the Series 2008 A Bonds Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2008 A Bonds Reserve Accounts (if fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2008 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2008 A Bonds and then to the next ensuing principal payment due thereon.

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

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

The Issuer shall not be required to make any further payments into the Series 2008 A Bonds Sinking Funds or the Series 2008 A Bonds Reserve Accounts when the aggregate amount of funds therein are at least equal to the respective aggregate principal amount of the Series 2008 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 2008 A Bonds, in accordance with the respective principal amounts then Outstanding.

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The Commission is hereby designated as the fiscal agent for the administration of the Series 2008 A Bonds Sinking Fund and the Series 2008 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 at any time, 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 required hereunder.

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

The Series 2008 A Bonds Sinking Funds and the Series 2008 A Bonds Reserve Accounts shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2008 A Bonds, respectively, 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 Bond Legislation. 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

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parties shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

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 however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. 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 2008 A Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 2008 A Bonds, there shall first be deposited in the Series 2008 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 2008 A Bonds for the period commencing on the date of issuance of the Series 2008 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 2008 A Bonds, there shall be deposited in the Series 2008 A Bonds Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding the Series 2008 A Bonds Reserve Account.

C. Next, from the proceeds of the Series 2008 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 and administrative fees on the Notes.

D. As the Issuer receives advances of the remaining moneys derived from the sale of the Series 2008 A Bonds, such moneys shall be deposited with the Depository Bank in the Series 2008 A Bonds Construction Trust Fund and applied solely to payment of 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 2008 A Bonds.

E. After completion of construction of the Project, as certified by the Consulting Engineers, and all costs have been paid, any remaining proceeds of the Series 2008 A Bonds shall be expended as directed by the Council.

Section 6.02. Disbursements From the 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 of proceeds of the Series 2008 A Bonds from the Series 2008 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 Engineers, stating that:

- (a) None of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;
- (b) Each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a cost of the Project;
- (c) Each of such costs has been otherwise properly incurred; and
- (d) Payment for each of the items proposed is then due and owing.

The Issuer shall expend all proceeds of the Series 2008 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.

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

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2008 A Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2008 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 any of the Series 2008 A Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2008 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 Bond Legislation. No Registered Owner of the Series 2008 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2008 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2008 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on a parity with the lien 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 Series 2008 A Bonds and the Prior Bonds and to make the payments into all funds and accounts and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to such payments as they become due, and for the other purposes provided in the Bond Legislation.

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.

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So long as the Series 2008 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 Bond Legislation 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 2008 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation 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 Bond Legislation 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 or transferred, mortgaged, leased or otherwise disposed of, except in accordance with the terms of the Prior Resolutions. Additionally, so long as the Series 2008 A Bonds are outstanding and except as otherwise required by 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 fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be remitted to the respective Sinking Funds and applied to the payment of principal of and interest, if any, on the Series 2008 A Bonds. Any balance remaining after the payment of the Series 2008 A Bonds and interest, if any, thereon shall be remitted to the Issuer unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution duly adopted, 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

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excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, 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 in accordance with the laws of the State. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amount required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay 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. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2008 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2008 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2008 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 have been made and are current at the time of the issuance of such subordinate obligations.

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

The Issuer shall give the Council and the Authority prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues

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

Section 7.07. Parity Bonds. So long as the Prior Bonds are Outstanding, the limitations on the issuance of parity obligations shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2008 A Bonds pursuant to this Bond Legislation, except with the prior written consent of the Authority, the Council and the Government under the conditions and in the manner herein provided.

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

No such Parity Bonds shall be issued except for the purposes of financing the costs of the design, acquisition or construction of extensions and improvements to the System or refunding any outstanding Bonds, or both such purposes.

So long as the 2002 C Bonds are Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent 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 Prior Bonds, representing 75% of the then-outstanding principal indebtedness. In the event the foregoing limitation is waived or when the Series 2005 A Bonds are no longer Outstanding, the following parity requirement shall be met:

When the Series 2002 C Bonds are no longer Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter

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provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

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

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

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

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer

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shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

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

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 Council and the Authority, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Council and the Authority 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 grants or other sources of financing for the Project.

The Issuer shall permit the Council and the Authority, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at all reasonable times following completion of acquisition and 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

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any Registered Owner of the Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council, the Authority or any other original purchaser of the Series 2008 A Bonds, and shall mail in each year to any Registered Owner of the Series 2008 A Bonds, requesting the same, an annual report containing the following:

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

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required, in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2008 A Bonds, and shall submit said report to the Council and the Authority or any other original purchaser of the Series 2008 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

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System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan 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 Council and the Authority, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Council and the Authority, or their agents and representatives, with access to the System site and System facilities as may be reasonably necessary to accomplish all of the powers and rights of the Council and the Authority with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2008 A Bonds, equitable rates or charges for the use of and service rendered by the System shall be established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Series 2008 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 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 Reserve Accounts and the reserve accounts for obligations on a parity with the Series 2008 A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such

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balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest, if any, on the Series 2008 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2008 A Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 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 Council and the Authority within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the 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 Council and the Authority 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 Council and the Authority and to any Registered Owner of any Bonds, or anyone acting for and on behalf of such Registered Owner.

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 respective Loan Agreements, and forward a copy of such report to the Council and the Authority by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer shall obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Council and the Authority, the Project is adequate for the purposes for which it was

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designed, the funding plan as submitted to the Council and the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the DEP, 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 Council, the Authority 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 shall 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 shall 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 of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the 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 and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all

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delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law. If the water facilities are not owned by the Issuer, the Issuer shall enter into a termination agreement with the water provider, subject to any required approval of such agreement by the PSC and all rules, regulations and orders of the PSC.

Section 7.14. No Free Services. Except as required by law, the Issuer shall not render or cause to be rendered any free services of any nature by the System, nor shall any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Bonds remain Outstanding, the Issuer shall, 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

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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 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

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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 Council and the Authority. 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. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the PSC, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

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

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer shall 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 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 Owner of the Series 2008 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, shall take effect immediately upon delivery of the Series 2008 A Bonds; provided however, that the statutory mortgage lien of the Series 2008 A Bonds shall be on a parity with the statutory mortgage 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 Council, the Authority or other State, federal 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. Securities Laws Compliance. The Issuer shall provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

Section 7.22. Contracts; Public Releases. A. The Issuer shall, simultaneously with the delivery of the Series 2008 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 2008 A Bonds held in “contingency” as set forth in the schedules attached to the certificate of the Managing Engineer. The Issuer shall also obtain the written approval of the Council before expending any proceeds of the Series 2008 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.

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ARTICLE VIII

INVESTMENTS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

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

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2008 A Bonds are Outstanding.

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 2008 A Bonds as a condition to issuance of the Series 2008 A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and

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applicable to the Series 2008 A Bonds as may be necessary in order to maintain the status of the Series 2008 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 2008 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 2008 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 2008 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 2008 A Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on any series of the Series 2008 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 2008 A Bonds set forth in this Bond Legislation, any supplemental resolution or in the Series 2008 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 Registrar, the Paying Agent or a Registered Owner of a Bond;

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

(4) If default occurs under the Prior Bonds or the Prior Resolutions.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2008 A Bonds and 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 the Series 2008 A Bonds may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of 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 exercise.

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

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of 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 there shall otherwise be paid to the Registered Owners of the Series 2008 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 Bond Legislation, then this Bond Legislation and the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2008 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2008 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2008 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 2008 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2008 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 Bond Legislation 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 2008 A Bonds from gross income of the Registered Owners thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2008 A Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 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, or the Series 2008 A Bonds.

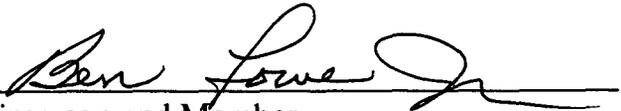
Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

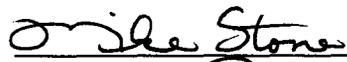
Section 11.05. Conflicting Provisions Repealed. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed.

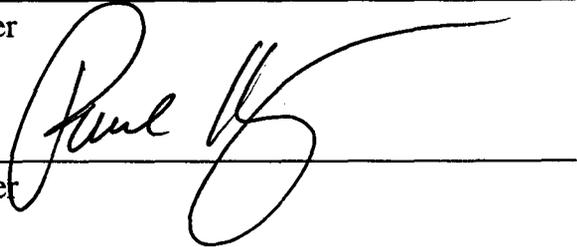
Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the 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. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 8th day of April, 2008.


Chairperson and Member


Member


Member

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CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of LOGAN COUNTY PUBLIC SERVICE DISTRICT on the 8th day of April, 2008.

Dated this 8th day of April, 2008.

[SEAL]

A handwritten signature in black ink, appearing to read "Mike Stone", is written over a solid horizontal line.

Secretary

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

2.5

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 SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO THE 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 8, 2008 (the “Resolution”), entitled:

RESOLUTION AUTHORIZING THE PREPAYMENT OF THE SEWERAGE SYSTEM DESIGN NOTES, SERIES 2005 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 SEWER 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 \$4,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER

REVENUE BONDS, SERIES 2008 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, RATIFYING AND CONFIRMING LOAN AGREEMENTS 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 Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of the Issuer, in the aggregate principal amount of not to exceed \$4,500,000 (the "Series 2008 A Bonds"), and has authorized the execution and delivery of a bond purchase agreement relating to the Series 2008 A Bonds, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") (collectively, the "Loan Agreement"), all in accordance with Chapter 16, Article 13A, Chapter 22C, Article 2 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 following bonds of the Issuer:

Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of \$4,500,000. The Series 2008 A Bonds shall be dated the date of delivery, shall finally mature March 1, 2048, and shall bear no interest. The principal of the Series 2008 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2009, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2008 A Bonds. The Series 2008 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 2008 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 ratifies, approves 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 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 and Trust, Logan, West Virginia, to serve as the Depository Bank under the Resolution.

Section 7. Series 2008 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2008 A Bonds Sinking Fund as capitalized interest.

Section 8. Series 2008 A Bonds proceeds in the amount of \$-0- shall be deposited in the Series 2008 A Bonds Reserve Account.

Section 9. Series 2008 A Bonds proceeds in the amount of \$146,300 shall be deposited with the Commission in the Notes Payment Fund to pay in full the entire outstanding principal of and all accrued interest and administrative fees on the Issuer's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund) (the "Notes"), heretofore issued to pay the costs of design of the Project.

Section 10. The remaining proceeds of the Bonds, as advanced from time to time, shall be deposited in the Series 2008 Bonds Construction Trust Fund, as received by the Issuer for payment of costs of the Project, including costs of issuance of the Bonds.

Section 11. 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 9, 2008.

Section 12. The prepayment 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 13. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the

Sinking Funds and the Reserve Accounts shall be invested by the Commission in the West Virginia Consolidated Fund.

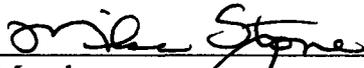
Section 14. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairperson is hereby authorized and directed to execute and deliver all such contracts.

Section 15. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 8th day of April, 2008.


Chairperson and Member


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 8th day of April, 2008.

Dated this 8th day of April, 2008.

[SEAL]


Secretary

1210/330

{C1248763.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

2.6

MINUTES ON ADOPTION OF BOND
RESOLUTION AND SUPPLEMENTAL RESOLUTION

On this 8th day of April, 2008, 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 special meeting of said Public Service Board:

The Public Service Board of Logan County Public Service District met in special session, pursuant to notice duly posted, on the 8th day of April, 2008, in Logan, West Virginia, at the hour of 6:00 p.m.

PRESENT: Ben F. Lowe, Jr. - Chairperson and Member
Mike Stone - Secretary and Member
Paul Hardesty - Treasurer and Member

ABSENT: None

Ben F. Lowe, Jr., 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 PREPAYMENT OF THE SEWERAGE SYSTEM DESIGN NOTES, SERIES 2005 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 SEWER 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 \$4,500,000 IN

AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2008 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, RATIFYING AND CONFIRMING LOAN AGREEMENTS 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 SEWER REVENUE BONDS, SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO THE 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.

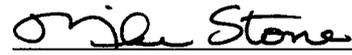

Chairperson


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 as of the date first written above.


Secretary

1210/330



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:
Ben F. Lowe, Jr., Chair
Mike Stone
Paul Hardesty
MANAGING ENGINEER:
Rick Roberts, P.E.*

AGENDA

April 8, 2008

1. Call To Order
2. Acknowledgment of Board Members and Others Present
3. Approval of Minutes
4. Customer / Public Presentations
5. Announcements
6. Project Implementation
 - a) Holden Water System Design
 - b) Phase IIA Wastewater Project
 - i) Bond Resolution Consideration
 - ii) Supplemental Resolution Consideration
 - iii) Consideration of Related Documents
 - c) North Fork Water Project
 - d) Anchor Road Water Project
 - e) Upper Little Harts Creek Water Project
 - f) Other Projects
7. Systems Operations
 - a) Review of Invoices/Payment Resolution
 - b) Review of Financial Report
 - c) Review of Delinquent Report
 - d) Review of Water Accountability Summary
 - e) Review of Monthly Vehicle Use Summary
 - f) Review of Purchased Water Report
 - g) Wyoming County Water Operations
 - h) Other
9. Adjournment

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 time(s) on the following date(s):

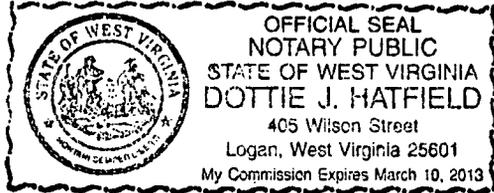
March 27th, 2008

Given under my hand this 31st day of March, 2008

Richard Osborne
PUBLISHER

State of West Virginia
County of Logan, to-wit:

Subscribed and sworn before me this 31st day of March, 2008



Dottie J. Hatfield
NOTARY PUBLIC

Cost of Publication: \$45.39

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 Tuesday, April 8, 2009, at 6:30 p.m., prevailing time, at the District's office at 41 Armory Road, Monaca, West Virginia, for the following purposes:

1. To consider and adopt a proposed Bond Resolution authorizing its Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), in the aggregate principal amount of \$4,500,000 (the "Bonds"), to pre-pay the District's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund), to pay the costs of acquisition and construction of certain improvements and extensions to the existing public sewer 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 Bonds.

3. To consider and adopt a proposed Resolution approving the invoices in connection with the Project for payment with proceeds of the Bonds.

To consider and approve all other documents and matters in connection with the financing, acquisition and construction of the Project.

This meeting is open to the press and the public and any person interested may attend such meeting.

Mike Stone
Secretary

NUMBER
AR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1

\$4,500,000

KNOW ALL MEN BY THESE PRESENTS: That on this 9th day of April, 2008, 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 FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000), or such lesser amount as shall have been advanced to the Issuer hereunder and not previously repaid, as set forth in the "Record of Advances" attached as EXHIBIT A hereto and incorporated herein by reference, in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2009, 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 9, 2008.

This Bond is issued (i) to pay in full the entire outstanding principal of and all accrued interest and administrative fees on the Issuer's Sewerage System Design Notes, Series 2006 A (West Virginia Infrastructure Fund) (the "Notes"), heretofore issued to pay the costs of design of the Project (hereinafter defined); (ii) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); and (iii) to pay certain costs of issuance of this Bond and related costs. The existing public sewer 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 8, 2008, and a Supplemental Resolution duly adopted by the Issuer on April 8, 2008 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL OTHER RESPECTS, WITH THE ISSUER'S (I) SEWER REVENUE BONDS, SERIES 2002 A (WEST VIRGINIA SRF PROGRAM), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$5,328,940; (II) SEWER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,190,000; AND (III) SEWER REVENUE BONDS, SERIES 2002 C (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 12, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$300,000 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the 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 Bond Legislation for this Bond (the

“Series 2008 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 2008 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount 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 2008 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 Bond Legislation) of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of prepayment the Notes, the costs of the Project and the costs of issuance hereof as described in the Bond

Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of this Bond.

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 at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

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

AR-1 SPECIMEN

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]

Ben Stone
Chairperson SPECIMEN

ATTEST:

M. Stone
Secretary SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

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

Date: April 9, 2008.

UNITED BANK, INC., as Registrar

Kat Smith

Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$95,943.00	April 9, 2008	(19) \$	
(2) \$ 146,300	April 9, 2008	(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 \$

AR-1

EXHIBIT B
DEBT SERVICE SCHEDULE
\$4,500,000

SPECIMEN

Logan County Public Service District
0% Interest Rate, 40 Years from Closing Date
Closing Date: April 9, 2008

Debt Service Schedule

Part 1 of 4

Date	Principal	Coupon	Total P+I
06/01/2008	-	-	-
09/01/2008	-	-	-
12/01/2008	-	-	-
03/01/2009	-	-	-
06/01/2009	-	-	-
09/01/2009	29,033.00	-	29,033.00
12/01/2009	29,033.00	-	29,033.00
03/01/2010	29,033.00	-	29,033.00
06/01/2010	29,033.00	-	29,033.00
09/01/2010	29,033.00	-	29,033.00
12/01/2010	29,033.00	-	29,033.00
03/01/2011	29,033.00	-	29,033.00
06/01/2011	29,033.00	-	29,033.00
09/01/2011	29,033.00	-	29,033.00
12/01/2011	29,033.00	-	29,033.00
03/01/2012	29,033.00	-	29,033.00
06/01/2012	29,033.00	-	29,033.00
09/01/2012	29,033.00	-	29,033.00
12/01/2012	29,033.00	-	29,033.00
03/01/2013	29,033.00	-	29,033.00
06/01/2013	29,033.00	-	29,033.00
09/01/2013	29,033.00	-	29,033.00
12/01/2013	29,033.00	-	29,033.00
03/01/2014	29,033.00	-	29,033.00
06/01/2014	29,033.00	-	29,033.00
09/01/2014	29,033.00	-	29,033.00
12/01/2014	29,033.00	-	29,033.00
03/01/2015	29,033.00	-	29,033.00
06/01/2015	29,033.00	-	29,033.00
09/01/2015	29,033.00	-	29,033.00
12/01/2015	29,033.00	-	29,033.00
03/01/2016	29,033.00	-	29,033.00
06/01/2016	29,033.00	-	29,033.00
09/01/2016	29,033.00	-	29,033.00
12/01/2016	29,033.00	-	29,033.00
03/01/2017	29,033.00	-	29,033.00
06/01/2017	29,033.00	-	29,033.00
09/01/2017	29,033.00	-	29,033.00
12/01/2017	29,033.00	-	29,033.00
03/01/2018	29,033.00	-	29,033.00
06/01/2018	29,033.00	-	29,033.00
09/01/2018	29,033.00	-	29,033.00
12/01/2018	29,033.00	-	29,033.00
03/01/2019	29,033.00	-	29,033.00

\$4,500,000

Logan County Public Service District
 0% Interest Rate, 40 Years from Closing Date
 Closing Date: April 9, 2008

Debt Service Schedule

Part 2 of 4

Date	Principal	Coupon	Total P+I
06/01/2019	29,033.00	-	29,033.00
09/01/2019	29,032.00	-	29,032.00
12/01/2019	29,032.00	-	29,032.00
03/01/2020	29,032.00	-	29,032.00
06/01/2020	29,032.00	-	29,032.00
09/01/2020	29,032.00	-	29,032.00
12/01/2020	29,032.00	-	29,032.00
03/01/2021	29,032.00	-	29,032.00
06/01/2021	29,032.00	-	29,032.00
09/01/2021	29,032.00	-	29,032.00
12/01/2021	29,032.00	-	29,032.00
03/01/2022	29,032.00	-	29,032.00
06/01/2022	29,032.00	-	29,032.00
09/01/2022	29,032.00	-	29,032.00
12/01/2022	29,032.00	-	29,032.00
03/01/2023	29,032.00	-	29,032.00
06/01/2023	29,032.00	-	29,032.00
09/01/2023	29,032.00	-	29,032.00
12/01/2023	29,032.00	-	29,032.00
03/01/2024	29,032.00	-	29,032.00
06/01/2024	29,032.00	-	29,032.00
09/01/2024	29,032.00	-	29,032.00
12/01/2024	29,032.00	-	29,032.00
03/01/2025	29,032.00	-	29,032.00
06/01/2025	29,032.00	-	29,032.00
09/01/2025	29,032.00	-	29,032.00
12/01/2025	29,032.00	-	29,032.00
03/01/2026	29,032.00	-	29,032.00
06/01/2026	29,032.00	-	29,032.00
09/01/2026	29,032.00	-	29,032.00
12/01/2026	29,032.00	-	29,032.00
03/01/2027	29,032.00	-	29,032.00
06/01/2027	29,032.00	-	29,032.00
09/01/2027	29,032.00	-	29,032.00
12/01/2027	29,032.00	-	29,032.00
03/01/2028	29,032.00	-	29,032.00
06/01/2028	29,032.00	-	29,032.00
09/01/2028	29,032.00	-	29,032.00
12/01/2028	29,032.00	-	29,032.00
03/01/2029	29,032.00	-	29,032.00
06/01/2029	29,032.00	-	29,032.00
09/01/2029	29,032.00	-	29,032.00
12/01/2029	29,032.00	-	29,032.00
03/01/2030	29,032.00	-	29,032.00

\$4,500,000

Logan County Public Service District

0% Interest Rate, 40 Years from Closing Date

Closing Date: April 9, 2008

SPECIMEN

Debt Service Schedule

Part 3 of 4

Date	Principal	Coupon	Total P+I
06/01/2030	29,032.00	-	29,032.00
09/01/2030	29,032.00	-	29,032.00
12/01/2030	29,032.00	-	29,032.00
03/01/2031	29,032.00	-	29,032.00
06/01/2031	29,032.00	-	29,032.00
09/01/2031	29,032.00	-	29,032.00
12/01/2031	29,032.00	-	29,032.00
03/01/2032	29,032.00	-	29,032.00
06/01/2032	29,032.00	-	29,032.00
09/01/2032	29,032.00	-	29,032.00
12/01/2032	29,032.00	-	29,032.00
03/01/2033	29,032.00	-	29,032.00
06/01/2033	29,032.00	-	29,032.00
09/01/2033	29,032.00	-	29,032.00
12/01/2033	29,032.00	-	29,032.00
03/01/2034	29,032.00	-	29,032.00
06/01/2034	29,032.00	-	29,032.00
09/01/2034	29,032.00	-	29,032.00
12/01/2034	29,032.00	-	29,032.00
03/01/2035	29,032.00	-	29,032.00
06/01/2035	29,032.00	-	29,032.00
09/01/2035	29,032.00	-	29,032.00
12/01/2035	29,032.00	-	29,032.00
03/01/2036	29,032.00	-	29,032.00
06/01/2036	29,032.00	-	29,032.00
09/01/2036	29,032.00	-	29,032.00
12/01/2036	29,032.00	-	29,032.00
03/01/2037	29,032.00	-	29,032.00
06/01/2037	29,032.00	-	29,032.00
09/01/2037	29,032.00	-	29,032.00
12/01/2037	29,032.00	-	29,032.00
03/01/2038	29,032.00	-	29,032.00
06/01/2038	29,032.00	-	29,032.00
09/01/2038	29,032.00	-	29,032.00
12/01/2038	29,032.00	-	29,032.00
03/01/2039	29,032.00	-	29,032.00
06/01/2039	29,032.00	-	29,032.00
09/01/2039	29,032.00	-	29,032.00
12/01/2039	29,032.00	-	29,032.00
03/01/2040	29,032.00	-	29,032.00
06/01/2040	29,032.00	-	29,032.00
09/01/2040	29,032.00	-	29,032.00
12/01/2040	29,032.00	-	29,032.00
03/01/2041	29,032.00	-	29,032.00

AR-1

\$4,500,000

Logan County Public Service District

SPECIMEN

0% Interest Rate, 40 Years from Closing Date

Closing Date: April 9, 2008

Debt Service Schedule

Part 4 of 4

Date	Principal	Coupon	Total P+I
06/01/2041	29,032.00	-	29,032.00
09/01/2041	29,032.00	-	29,032.00
12/01/2041	29,032.00	-	29,032.00
03/01/2042	29,032.00	-	29,032.00
06/01/2042	29,032.00	-	29,032.00
09/01/2042	29,032.00	-	29,032.00
12/01/2042	29,032.00	-	29,032.00
03/01/2043	29,032.00	-	29,032.00
06/01/2043	29,032.00	-	29,032.00
09/01/2043	29,032.00	-	29,032.00
12/01/2043	29,032.00	-	29,032.00
03/01/2044	29,032.00	-	29,032.00
06/01/2044	29,032.00	-	29,032.00
09/01/2044	29,032.00	-	29,032.00
12/01/2044	29,032.00	-	29,032.00
03/01/2045	29,032.00	-	29,032.00
06/01/2045	29,032.00	-	29,032.00
09/01/2045	29,032.00	-	29,032.00
12/01/2045	29,032.00	-	29,032.00
03/01/2046	29,032.00	-	29,032.00
06/01/2046	29,032.00	-	29,032.00
09/01/2046	29,032.00	-	29,032.00
12/01/2046	29,032.00	-	29,032.00
03/01/2047	29,032.00	-	29,032.00
06/01/2047	29,032.00	-	29,032.00
09/01/2047	29,032.00	-	29,032.00
12/01/2047	29,032.00	-	29,032.00
03/01/2048	29,032.00	-	29,032.00
Total	\$4,500,000.00	-	\$4,500,000.00

AR-1

(Form of)

SPECIMEN

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____ Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

In the presence of:

April 9, 2008

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 Sewer Revenue Bonds,
Series 2008 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 Sewer Revenue Bonds, Series 2008 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 9, 2008, 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 \$4,500,000 in the form of one bond, registered to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2009, 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

{C1248824.1}

outstanding principal of and all accrued interest and administrative fees on the Issuer's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund), heretofore issued to pay the costs of design of the Project (hereinafter defined); (ii) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer 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 8, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 8, 2008 (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, if any, 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, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the 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,



1210/330

BOND REGISTER

2.9

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

<u>Bond Number</u>	<u>Principal Amount</u>	<u>Date of Bond</u>
No. AR-1	\$4,500,000	April 9, 2008

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

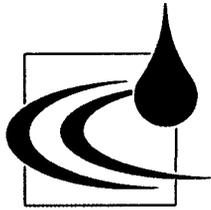
Signature of Registrar:



Authorized Representative

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{C1248776.1}



WEST VIRGINIA
Water Development Authority
Celebrating 34 Years of Service 1974 - 2008

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

CONSENT TO ISSUANCE OF BONDS

In reliance upon a certificate of Griffith & Associates, an independent certified public accountant and the opinion of Jackson Kelly PLLC, bond counsel, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund) (the "Series 2008 A Bonds"), in the original aggregate principal amount of \$4,500,000, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2008 A Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's (i) Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program); and (ii) Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds").

WITNESS my signature on this 9th day of April, 2008.

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY


Chris E. Jarrett – Executive Director



**United States Department of Agriculture
Rural Development
West Virginia State Office**

**LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2007 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 Sewer Revenue Bonds, Series 2007 A (West Virginia Infrastructure Fund) (the "Series 2007 A Bonds"), in the original aggregate amount not to exceed \$4,500,000, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2007 A Bonds (collectively, the "Resolution"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewer Revenue Bonds, Series 2002 C (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 2007 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESS my signature on this 4th day of February, 2008.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT

A handwritten signature in cursive script, reading "Darlene Duff Crayter".

Acting State Director

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.1

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. PROCUREMENT OF ENGINEERING SERVICES
18. CLEAN WATER ACT
19. GRANTS
20. COUNTERPARTS

On this 9th day of April, 2008, 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 Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), dated the date hereof (the “Bonds” or, the “Series 2008 A Bonds”), as follows:

1. **TERMS:** All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on April 8, 2008, the Supplemental Resolution duly adopted by the Issuer on April 8, 2008 (collectively, the “Resolution”), the loan agreement for the Series 2008 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 9, 2008 (collectively, 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 2008 A Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source 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 to the issuance of the Series 2008 A Bonds on a parity with the Prior Bonds. Following the prepayment of the Notes, there are no other 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 for each series, 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 order of the Public Service Commission of West Virginia (the "PSC") entered on November 15, 2007, in Case No. 07-1348-PSD-ECN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving financing for the Project. The time for appeal of the PSC order entered November 15, 2007, has expired prior to the date hereof without any appeal having been filed. The order remains in full force and effect.

7. RATES: The rates for the System, as approved by the PSC in an order entered on October 16, 2007, in Case No. 07-1206-PSD-42T became effective on November 30, 2007.

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 Monongalia County and presently existing under the laws of, and a political subdivision of, the State of West Virginia in Monongalia County 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:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Ben F. Lowe, Jr.	January, 2008	January, 2014
Mike Stone	October 2007	October 2013
Paul Hardesty	February 2008	January 2014

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

Ben F. Lowe, Jr.	-	Chairperson
Mike Stone	-	Secretary
Paul Hardesty	-	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 and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Loan 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

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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 are specimens of the Bonds which, except as to execution and authentication, are identical in all respects with the Bonds 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 \$95,943 from the Authority and the Council, being a portion of the principal amount of the Series 2008 A Bonds. The balance of the respective principal amounts of the 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 Schedules A and 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. **PROCUREMENT OF ENGINEERING SERVICES:** The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

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

19. **GRANTS:** As of the date hereof, the grant from the Council in the amount of \$1,500,000 is committed for the Project and a Small Cities Block Grant in the amount of \$1,500,000 and in full force and effect.

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

Ben Stone Jr.

Chairperson

Mike Stone

Secretary

James A. Williams

Attorney

EXHIBIT A

See Specimen Bond (Tab No. 14).

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{C1248786.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.2

CERTIFICATE AS TO USE OF PROCEEDS

On this 9th day of April, 2008, the undersigned Chairperson of the Public Service Board of Logan County Public Service District in Logan County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of \$4,500,000 Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of the Issuer, dated April 9, 2008 (the "Bonds" or, the "Series 2008 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 8, 2008 (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 9, 2008, 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 Series 2008 A Bonds were sold on April 9, 2008, to the Authority, pursuant to a loan agreement dated April 9, 2008, by and between the Issuer

and the Authority, on behalf of the Council, for an aggregate purchase price of \$4,500,000 (100% of par), at which time, the Issuer received \$95,943 from the Authority and the Council, being the first advance of the principal amount of the Series 2008 A Bonds. No accrued interest has been or will be paid on the Bonds. The balance of the respective principal amounts 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 and administrative fees on the Issuer's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund) (the "Notes"), heretofore issued to pay the costs of design of the Project (hereinafter defined); (ii) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer 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. 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 Reserve Accounts for the Bonds, 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 March 1, 2009. The acquisition and construction of the Project is expected to be completed by February 1, 2009.

8. The total cost of the Project is estimated at \$7,500,000. Sources and uses of funds for the Project are as follows:

SOURCES

Proceeds of Series 2008 A Bonds	\$4,500,000
Small Cities Block Grant	\$1,500,000
Infrastructure Fund Grant	<u>\$1,500,000</u>
Total Sources	\$7,500,000

USES

Costs of the Project	\$7,325,700
Payment of Notes	\$ 146,300
Costs of Issuance	\$ <u>28,000</u>
Total Uses	\$7,500,000

9. Pursuant to Article V of the Bond Resolution, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Series 2008 A Bonds Construction Trust Fund;
- (4) Series 2008 A Bonds Sinking Fund; and
- (5) Series 2008 A Bonds Reserve Account.

10. Pursuant to Article VI of the Bond Resolution, the proceeds of the Bonds will be deposited as follows:

- (1) Series 2008 A Bonds proceeds in the amount of \$-0- will be deposited in the Series 2008 A Bonds Reserve Account.
- (2) Series 2008 A Bonds proceeds in the amount of \$146,300 will be deposited with the Commission in the Notes Payment Fund to pay in full the entire outstanding principal of and all accrued interest and administrative fees on the Notes.
- (3) The balance of the proceeds of the Bonds will be deposited in the Series 2008 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.

11. Moneys held in the Series 2008 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2008 A Bonds and will not be available to meet costs of acquisition and construction of the Project. All investment earnings on moneys in the Series 2008 A Bonds Reserve Account (if fully funded) shall

be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Series 2008 A Bonds Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2008 A Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

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 10 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 2008 A Bonds Reserve Account, if any, all of the proceeds of the Series 2008 A Bonds will be expended on the Project within 11 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 original 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 proceeds from each series 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 2008 A Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2008 A Bonds in the then current or any succeeding year with the proceeds of the Series 2008 A Bonds, or (b) created the Series 2008 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2008 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 Series 2008 A Bonds in the then current or any succeeding year. Moneys in the Series 2008 A Bonds Reserve Account and the Series 2008 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2008 A 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.


Chairperson

1210/330

{C1248790.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.3

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 9th day of April, 2008, 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 Sewer Revenue Bonds, Series 2008 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. NPDES Permit.
14. Infrastructure Council Grant Agreement.
15. Small Cities Block Grant Agreement.
16. Evidence of Insurance.
18. Receipt of Payment of Notes.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

[SEAL]

Mike Stone

Secretary

1210/330

{C1248796.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.4

CERTIFICATE OF CONSULTING ENGINEER

On this 9th day of April, 2008, 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:

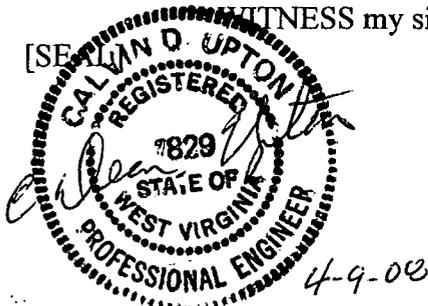
1. Stafford Consultants, Incorporated is engineer for the acquisition and construction of certain improvements and extensions (the "Project") to the existing public sewer facilities (the "System") of Logan County Public Service District (the "Issuer"), to be constructed primarily in Logan County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds" or, the "Series 2008 A 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 8, 2008 (the "Resolution"), and the loan agreement for the Series 2008 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 8, 2008 (collectively, the "Loan Agreement").

2. The Bonds are being issued for the purposes of (i) paying in full the entire outstanding principal of and all accrued interest and administrative fees on the Issuer's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund), heretofore issued to pay the costs of design of the Project; (ii) paying a portion of the costs of acquisition and construction of the Project; and (iii) paying certain costs of issuance of the Bonds and related costs.

3. To the best of my knowledge, information and belief (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by the Department of Environmental Protection (DEP) 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 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 Schedules A and B attached hereto as Exhibit A, and in reliance upon the opinion of Issuer's counsel, James A. Walker, Esquire, of even date herewith, all successful bidders have made required provisions for all insurance and payment and performance bonds and such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the DEP and the bid forms provided to the bidders contain all critical operational components of the Project; (vi)

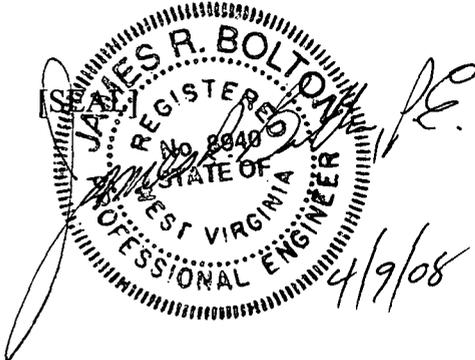
the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained the following permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System, including (a) Army Corp. of Engineers Permit 2007-66 GUY, Permitting the Nine (9) stream crossings associated with the project, (b) the Army Corp. of Engineers Nationwide Permit (404), (c) The West Virginia Department of Environmental Protection 401 Certification and General NPDES Permit No. WV0115924, (d) the West Virginia Office of Environmental Health Services Construction Permit No. 17,359, (e) the CSX Transportation Agreements CSX-057061 and CSX-057062, (f) Modification No. 1 to the General NPDES Permit No. WV0105171, and (g) West Virginia Department of Highways Permit No. 2-07-0017; and (ix) in reliance upon the certificate of Griffith & Associates, of even date herewith, as of the effective date thereof, the rates and charges for the System as approved by the Public Service Commission of West Virginia and adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement and the Resolution; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project approved by the DEP and the Council; and (xi) attached hereto as Exhibit A are the final amended "Schedule A - Total Cost of Project, Sources of Funds and Cost of Financing" and "Schedule B - Final Total Cost of Project, Sources of Funds and Cost of Financing" for the Project.

[SEAL] WITNESS my signature and seal as of the date first written above.



STAFFORD CONSULTANTS,
INCORPORATED

C. Dean Upton, P.E.
West Virginia License No. 7829



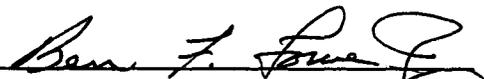
James R. Bolton, P.E.
West Virginia License No. 8940

1210/330

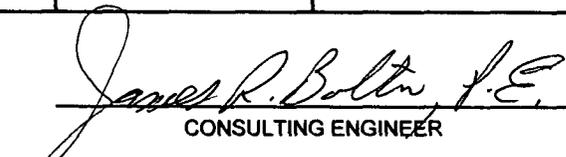
{C1248798.1}

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL
SCHEDULE B
LOGAN COUNTY PUBLIC SERVICE DISTRICT
PHASE IIA WASTEWATER PROJECT
FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING

A. Cost of Project	Total	SCBG Grant	WVIJDC Grant/Loan
1. Construction (Based on actual bids)			
a. Contract 1	\$2,966,824.00	\$500,000.00	\$2,466,824.00
b. Contract 2	\$1,933,492.00	\$500,000.00	\$1,433,492.00
c. Contract 3	\$1,250,535.30	\$450,000.00	\$800,535.30
2. Engineering Fees			
a. Design (IJDC Design Loan Payoff)*	\$146,300.00		\$146,300.00
b. Design (Other)	\$39,700.00		\$39,700.00
c. Construction Engineering	\$98,200.00		\$98,200.00
d. Special Engineering	\$37,800.00		\$37,800.00
e. Inspection	\$178,000.00		\$178,000.00
3. Legal			
a. Project Legal Services	\$5,000.00		\$5,000.00
b. PSC Legal Services	\$10,000.00		\$10,000.00
c. Property Acquisition Legal Services	\$25,000.00		\$25,000.00
4. Administration	\$70,000.00	\$50,000.00	\$20,000.00
5. Sites and Other Lands	\$50,000.00		\$50,000.00
6. Permits	\$40,000.00		\$40,000.00
7. Accountant	\$4,500.00		\$4,500.00
8. Contingency	\$615,648.70		\$615,648.70
9. Total Lines 1 Through 8	\$7,471,000.00	\$1,500,000.00	\$5,971,000.00
B. Sources of Funds			
10. SCBG Grant	\$1,500,000.00	\$1,500,000.00	
11. IJDC Grant	\$1,500,000.00		\$1,500,000.00
12. Net Proceeds Required from Bond Issue (Line 9 minus Lines 10 & 11)	\$4,471,000.00		\$4,471,000.00
C. Cost of Financing			
13. Other Costs			
a. Bond Counsel	\$27,500.00		\$27,500.00
b. Accountant	\$1,000.00		\$1,000.00
c. Capitalized Interest			
d. Registrar Fee	\$500.00		\$500.00
14. Total Cost of Financing (Lines 13a Through 13d)	\$29,000.00		\$29,000.00
15. Size of Bond Issue (Line 12 Plus Line 14)	\$4,500,000.00		\$4,500,000.00


GOVERNMENTAL AGENCY

DATE: March 25, 2008


CONSULTING ENGINEER

DATE: March 25, 2008

* Original Design Loan was \$ 154,000



April 9, 2008

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Logan County Public Service District
Monaville, West Virginia

United States Department of Agriculture
Rural Utilities Service
Beckley, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

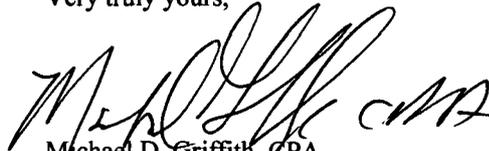
Ladies and Gentlemen:

I have reviewed the sewer rates of Logan County Public Service District (the "Issuer") and the projected operating expenses and anticipated customer usage provided by Stafford Consultants, Inc., the consulting engineer of the Issuer. It is my opinion that such rates, together with other revenues of the sewer facilities of the Issuer (the "System"), are sufficient (i) to provide for all operating expenses of the System and (ii) to leave a balance each fiscal year equal to at least 115% of the maximum amount required in any succeeding fiscal year for payment of principal of and interest, if any, on the Issuer's (i) Sewer Revenue Bonds, Series 2002 A (West Virginia SRF Program); (ii) Sewer Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund); (iii) Sewer Revenue Bonds, Series 2002 C (United States Department of Agriculture) (collectively, the "Prior Bonds"); and (iv) Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund) (the "Series 2008 A Bonds").

It is further my opinion that (i) the Net Revenues for the fiscal year following the year in which the Series 2008 A Bonds are to be issued will be at least 115% of the average annual debt service requirements on the Prior Bonds and the Series 2008 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 2008 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 2008 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 2008 A Bonds.

The Issuer is current on all payments to the funds and accounts established under the Bond Resolutions, including RUS reserve accounts.

Very truly yours,



Michael D. Griffith, CPA

MDG/dk

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.6

RECEIPT FOR BONDS

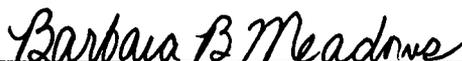
On this 9th day of April, 2008, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the date hereof, in Charleston, West Virginia, the Authority received the Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of Logan County Public Service District (the "Issuer"), in the principal amount of \$4,500,000, numbered AR-1 issued in the form of one bond, fully registered to the Authority, and dated April 9, 2008 (collectively, 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 as of the date first written above.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY



Authorized Representative

1210/330

{C1248803.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.7

RECEIPT FOR BOND PROCEEDS

On this 9th day of April, 2008, the undersigned Chairperson of Logan County Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On the date hereof, the Issuer received from the Authority, as the original purchaser of the \$4,500,000 Logan County Public Service District Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), dated April 9, 2008 (the "Series 2008 A Bonds"), the sum of \$95,943, being a portion of the principal amount of the Series 2008 A Bonds. The Issuer understands that the remaining proceeds of the Series 2008 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 as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT



Chairperson

1210/330

{C1248805.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 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:

On this 9th day of April, 2008, we herewith hand to you, duly executed, the \$4,500,000 Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), in the form of one bond, numbered AR-1, dated April 9, 2008 (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 8, 2008.

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.

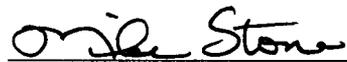
WITNESS our signatures as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT


Chairperson

(SEAL)

Attest:


Secretary

1210/330

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.9

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 9th day of April, 2008, 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 \$4,500,000 Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund) (collectively, the "Bonds"), in the form of one bond, dated the date hereof, in fully registered form, pursuant to a Bond Resolution and a Supplemental Resolution adopted by the Issuer on April 8, 2008 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Resolution 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.

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 25301-2135
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)

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

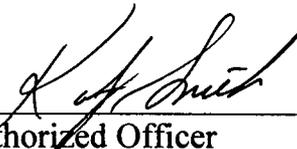
3.10

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 Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), of the Issuer, dated April 9, 2008, in the principal amount of \$4,500,000, and numbered AR-1, were 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 9th day of April, 2008.

UNITED BANK, INC., as Registrar



Authorized Officer

1210/330

{C1248811.1}

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

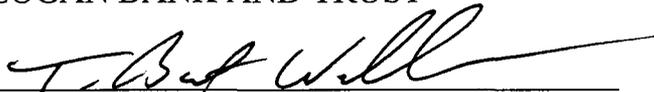
3.11

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

Logan Bank and Trust, Logan, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution and a Supplemental Resolution adopted by Logan County Public Service District (the "Issuer") on April 9, 2008 (collectively, the "Resolution"), authorizing issuance of the Issuer's Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund), in the respective aggregate principal amount of \$4,500,000, dated April 9, 2008, and agrees to serve as Depository Bank, all as set forth in the Resolution.

WITNESS my signature on this 9th day of April, 2008.

LOGAN BANK AND TRUST



Authorized Officer

1210/330

{C1248813.1}

WEST VIRGINIA MUNICIPAL BOND COMMISSION

Suite 500
8 Capitol Street, Charleston, WV 25301
(304) 558-3971

3.12

NEW ISSUE REPORT FORM

Date of Report: April 9, 2008

ISSUE: Logan County Public Service District Sewer Revenue Bonds, Series 2008 A (West Virginia Infrastructure Fund)

ADDRESS: P.O. Box 506, Logan, WV 25601 COUNTY: Logan

PURPOSE OF ISSUE: New Money Refunding Refunds issue(s) dated: November 17, 2005

ISSUE DATE: April 9, 2008 CLOSING DATE: April 9, 2008

ISSUE AMOUNT: \$4,500,000 RATE: 0%

1st DEBT SERVICE DUE: September 1, 2009 1st PRINCIPAL DUE: September 1, 2009

1st DEBT SERVICE AMOUNT: \$ _____ PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: _____

Contact Person: Samme L. Gee, Esquire Contact Person: _____

Phone: (304) 340-1318 Phone: _____

CLOSING BANK: Logan Bank and Trust ESCROW TRUSTEE: _____

Contact Person: Bart Willis Contact Person: _____

Phone: (304) 752-1166 Phone: _____

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WV Infrastructure & Jobs Development Council

Contact Person: Rick Roberts Contact Person: Jefferson Brady, P.E.

Position: Managing Engineer Function: Executive Secretary

Phone: (304) 946-2641 Phone: (304) 558-4607

E-Mail: rick@LCPSD.com

DEPOSITS TO MBC AT CLOSE: _____ Accrued Interest: \$ _____

Capitalized Interest: \$ _____

By Wire Reserve Account: \$ _____

_____ Check Other: Prepayment of 2005 A Note \$ 146,300

REFUNDS & TRANSFERS BY MBC AT CLOSE:

By _____ Wire To Escrow Trustee: \$ _____

_____ Check To Issuer: \$ _____

_____ IGT To Cons. Invest. Fund \$ _____

To Other: _____ \$ _____

NOTES: The Series 2008 A Bonds Reserve Account will be funded over 10 years. Series 2008 A Bonds proceeds in the amount of \$146,300 will pay in full the Issuer's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund)

FOR MUNICIPAL BOND COMMISSION USE ONLY:

Documents Required: _____

Transfers Required: _____



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304-2345
Telephone Number: (304) 926-0495
Fax Number: (304) 926-0463

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

October 31, 2007

Rick Roberts
Logan County PSD
P.O. Drawer 506
Logan, WV 25601

CERTIFIED RETURN RECEIPT REQUESTED

Re: WV/NPDES Permit No. WV0105171
Modification No 1 - Logan County

Dear Mr. Roberts:

This correspondence serves as Modification No. 1 of your existing WV/NPDES Water Pollution Control Permit No. WV0105171 issued the 19th day of May 2006.

After review and consideration of the information submitted on and with WV/NPDES Water Pollution Control Permit Application No. WV0105171-A, dated the 14th day of August 2007, additional information received on the 5th day of September 2007, and other relevant information, the subject Permit is hereby modified as follows:

To acquire, construct, install, operate, maintain, and expand an existing wastewater collection system to serve approximately 343 customers in the West Logan, Hedgeview, Thompson Town and Verdunville areas in the Logan County Public Service District. This includes 14,000 linear feet of Six (6) inch diameter sewer line; 11,000 linear feet of eight (8) inch diameter sewer line; 4,070 linear feet of ten (10) inch diameter sewer line; 1,985 linear feet of 16-inch diameter sewer line; 890 linear feet of 18-inch diameter sewer line; 190 linear feet of 1.5-inch diameter force main; 7,000 linear feet of eight (8) inch diameter force main; 1,340 linear feet of 14-inch diameter force main; necessary manholes and cleanouts; one (1) simplex grinder pump station; one (1) duplex grinder pump station; one (1) duplex submersible sewage pump station; renovate an existing sewage pump station by adding two (2) submersible sewage pumps; and all necessary controls and appurtenances.

Rick Roberts
Page 2 of 2
October 31, 2007

PROPOSED SEWAGE COLLECTION AND TREATMENT FACILITY TO BE
CONSTRUCTED IN ACCORDANCE WITH:

Plans, Specifications, and Reports:

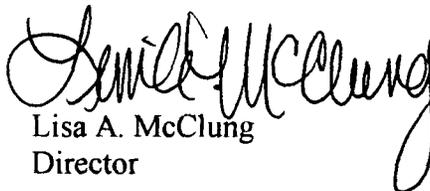
Date Approved: Health Department Permit No. 17,359 dated 1-8-2007
Prepared by: Stafford Consultants Incorporated
P.O. Box 5849
Princeton, WV 24740
Title: Logan County PSD
Phase IIA West Logan-Hedgeview
Proposed Sewer Extension
Logan County
IJDC No. 2005S-862

After careful review of all information accompanying Permit No. WV0105171, and after receipt and review of Modification Application No. WV0105171-A, dated the 17th day of August 2007, the subject Permit is hereby modified to amend Section D.4) to incorporate Raleigh County Solid Waste Authority landfill disposal site. Prior approval by the Division of Water and Waste Management is required to change landfill disposal site(s).

This Modification in no way relieves the permittee of its obligation to comply with all terms and conditions of its WV/NPDES Permit and shall not constitute an affirmative defense in any enforcement action brought against the permittee.

All other terms and conditions of the subject WV/NPDES Water Pollution Control Permit No. WV0105171 shall remain in effect and unchanged.

Sincerely,


Lisa A. McClung
Director

LAM/wjs

cc: Env. Inspector Supervisor
Env. Inspector, Logan County

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 the 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 \$1,500,000 (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.

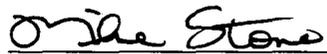
IN WITNESS WHEREOF, the parties hereto have caused this Grant Agreement to be executed by the respective duly authorized officers as of the date executed below by the Authority.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

By: 
Its: Chairman
Date: April 9, 2008

(SEAL)

Attest:



Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

By: 
Its: Executive Director
Date: April 9, 2008

(SEAL)

Attest:



Its: Secretary-Treasurer

170-
Jm
RECEIVED
D.A.
↑

June 6, 2007

The Honorable Arthur E. Kirkendoll
President
Logan County Commission
300 Stratton Street
Logan, West Virginia 25601

Dear Commissioner Kirkendoll:

**RE: Fiscal Year 2006 Small Cities Block Grant
Logan County Commission – Phase IIA Wastewater Line Extension
Grant Number: 06SCBG0069X**

Enclosed is your copy of the executed grant award and state/local contract for the above-referenced project. You should retain this contract and grant award with your project files.

Sincerely,

Angela White Negley
Angela White Negley, PCED, EDFP
Community Development Specialist

AWN:sm

Enclosure

Cc: Michele Craig, Region II

**WEST VIRGINIA DEVELOPMENT OFFICE
GRANT AWARD**

Grant Number: 07-399
State Acct. No.: 8746-2007-0307-096-128
Program Name: SCBG

CFDA Number: 14.228
Fiscal Year: 2007

Grantee Name & Address: Logan County Commision 300 Stratton Street Logan, WV 25601	F.E.I.N.
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Grant Period: From: February 16, 2007 To: February 16, 2010
Project Name: Sewer
Grant ID: B06DC540001
Project Number: 06SCBG0069X

Project Description

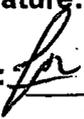
Shall do, perform and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary for the Logan County Public District to extend sewer service to approximately 320 new customers in the Ellis Addition, Lintz Addition, Thompson Town, Hedgeview, and other area of Logan County.

Change Orders

<u>Number:</u>	<u>Date:</u>	<u>Purpose:</u>

TERMS AND CONDITIONS ARE ON FILE IN THE WEST VIRGINIA DEVELOPMENT OFFICE AND AVAILABLE FOR INSPECTION. A COPY OF THE ORIGINAL AGREEMENT IS ATTACHED TO TRANSMITTAL _____, PROCESSED ON OR ABOUT _____, PAYMENT NUMBER _____.

TOTAL AMOUNT OF THIS GRANT \$300,000.00

Authorized Signature: 
Title:  Executive Director

Submitted By: Angela Negley

Date: May 25, 2007



State of West Virginia

Joe Manchin III

Governor

Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, WV 25305

Telephone: (304) 558-2000
Toll Free: 1-888-438-2731
FAX: (304) 342-7025
www.wv.gov.org

February 16, 2007

The Honorable Arthur E. Kirkendoll
President
Logan County Commission
300 Stratton Street
Logan, West Virginia 25601

Dear Commissioner Kirkendoll:

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

Your request has been approved in the amount of \$1,500,000. These funds will enable the Logan County Public Service District to extend sewer service to approximately 320 new customers in the Ellis Addition, Lintz Addition, Thompson Town, Hedgeview, and surrounding areas of Logan County.

In order to effectively use the limited dollars available, I hereby commit \$300,000 from our fiscal year 2006 allocation that will immediately be available to you. The remaining \$1,200,000 necessary to complete the project will be evaluated and committed in a future year allocation based on your ability to proceed forward with this project. I encourage you to expedite this project and reach its completion as quickly as possible with this funding strategy in mind. The West Virginia Development Office reserves the right to withdraw these funds if your project does not proceed on schedule.

Please contact Mrs. Angela White Negley of the West Virginia Development Office, at (304) 558-2234, to complete the necessary contract in order to proceed with your project.

I am pleased to assist with these improvements for the citizens of Logan County.

With warmest regards,

Joe Manchin III
Governor

A handwritten signature in black ink, appearing to read "Joe Manchin III".

SMALL CITIES BLOCK GRANT CONTRACT
between the
WEST VIRGINIA DEVELOPMENT OFFICE
and the
LOGAN COUNTY COMMISSION

THIS AGREEMENT, entered into this 16th day of February, 2007, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office, hereinafter called the "State," and the Logan County Commission and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

WITNESS THAT:

WHEREAS, the State has elected to administer the nonentitlement portion of the Community Development Block Grant Program as authorized by Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended, subject to the applicable regulations of the Department of Housing and Urban Development, including but not limited to 24 CFR Part 570, Sub-Part I, as amended or revised, and subject to the scope of the State of West Virginia's Small Cities Block Grant Handbook and other Program Guidelines, receipt of which is hereby acknowledged by the Grantee.

WHEREAS, the Grantee has identified its housing and community development needs, including those of low- and moderate-income persons and the activities to be undertaken to meet such needs.

WHEREAS, the Grantee has prepared a written citizen's participation plan which provides opportunities for citizen participation, hearings, and access to information with respect to the proposed project statement in such a manner as to afford affected citizens an opportunity for examination and comment regarding the proposed project and on the community development performance of the Grantee, a Community Development and Housing Needs Assessment Plan, and an Anti-displacement and Relocation Assistance Plan.

WHEREAS, for audit purposes, the Catalog of Federal Domestic Assistance (CFDA) number is 14.228, Community Development Block Grant/State's Program, funded by the U. S. Department of Housing and Urban Development.

WHEREAS, the Grantee has requested assistance from the State and has offered assurances that maximum feasible priority has been given to activities which will benefit low- and moderate-income families, or aid in the prevention or elimination of slums or blight, or to meet other community needs having a particular urgency because an existing condition poses a serious and immediate threat to the health and welfare of the community where other financial resources are not available to meet such needs.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Assistance to Grantee**. The State shall obligate to the Grantee, from funds allocated to the State by Grant Agreement B-06-DC-54-0001, \$300,000 to perform such tasks hereafter described in the Scope of Services.

2. **Scope of Services**. The Grantee, or its designated agent, in accordance with the Small Cities Block Grant Handbook other Program Guidelines to be used in administration of the Small Cities Block Grant, and in accordance with the approved application of the Grantee which is attached hereto and made a part hereof as Attachment A, shall do, perform, and carry out, in a satisfactory and proper manner all duties, tasks, and functions necessary to enable the Logan County Public Service District to extend sewer service to approximately 320 new customers in the Ellis Addition, Lintz Addition, Thompson Town, Hedgeview, and surround areas of Logan County.

3. **Changes**. The State and the Grantee, from time to time, may require changes in the Scope of the Services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed which are mutually agreed upon by and between the State and the Grantee, shall be incorporated in written amendments to this Contract. Changes in the number of L/M beneficiaries as well as in the Scope of Services which deviate from that originally approved shall require the same citizen participation process as performed for the initial submission of

~~the grant proposal.~~ The State reserves the right to make final determination on questions regarding changes in the Scope of Services.

4. **Time of Performance.** The Grantee will commence its duties under this Contract on February 16, 2007, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by February 16, 2010. Completion date of this Contract may only be extended by mutual written agreement of both parties.

5. **Performance Measures.** Performance measures establish that the Grantee should have all other funding in place and design and engineering completed within twelve months. Furthermore, construction should be started within eighteen months after the execution of this Agreement by both parties. These performance measures establish goals against which performance under this contract can be measured and evaluated during regular scheduled monitoring visits by the State. Failure to meet these performance measures can result in termination of this contract (see Provision 10 of this agreement).

6. **Administrative Requirements and Procedures.**

(A) *Personnel.* The Grantee represents that it has or will secure personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of, or have any contractual relationship with the State, consistent with the procedures identified in the Small Cities Block Grant Handbook.

(B) *Applicable Law.* The Grantee, its agents, and subrecipients shall comply with all the restrictions, conditions, policies, guidelines, and requirements of Title I of the Housing and Community Development Act of 1974 (Public Law 93-383), as amended; with all applicable State and Federal Laws and regulations including 24 CFR Part 570; 24 CFR Part 85; OMB Circulars A-87, A-110, A-122, and A-133, as applicable, in administering and distributing funds provided under this Agreement including, but not limited to, the following:

(1) P.L. 88-352: Refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et. seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations are found in 24 CFR Part I.

(2) P.L. 90-284: Refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601-20 et. seq.) popularly known as the Fair Housing Act which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including otherwise making unavailable or denying a dwelling to any person, because of race, color, religion, sex, national origin, handicap, or familial status. The Grantee further certifies that it will take actions necessary to affirmatively further fair housing.

(3) Executive Order 11063, as amended by Executive Order 12259, requires that taking of all actions necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use of occupancy thereof. Implementing regulations are contained in 24 CFR 107.

(4) Section 109 of P.L. 93-383 requires that no person in the United States shall, on the grounds of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds.

Section 109 of the Act further provides any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified handicapped person as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply.

(5) Section 110 of P.L. 93-383 requires compliance with the Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5). By reason of the foregoing requirement,

the Contract Work Hours and Safety Standards Act, as amended (40 U.S.C. 327 et. seq.) and the Copeland Act (40 U.S.C. 276c) also applies. In addition, the West Virginia Act on Construction of Public Improvements, Article 5A, Chapter 21 of the West Virginia State Code applies.

(6) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701U) requiring that to the greatest extent feasible opportunities for employment and training be given to lower income persons residing within the unit of local government or metropolitan area or nonmetropolitan county in which the project is located, and that Contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the same area.

(7) Executive Order 11246, as amended by Executive Order 12086 shall apply and provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or Federally assisted construction contracts.

(8) Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831b) prohibits the use, and requires the elimination and/or abatement of the hazards of lead-based paints in residential structures constructed or rehabilitated with Federal assistance to include notification of the hazards of lead-based paint. The Lead Safe Housing Regulation (24 CFR Part 35) established the requirements for notification, evaluation, and reduction of lead-based paint hazards in federally-owned residential property and housing that receives federal assistance.

(9) The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and action as specified and required in regulations issued by the Secretary of Housing and Urban Development pursuant to Section 104(g) of the Act and published in 24 CFR Part 58. In addition to assuming responsibility for National Environmental Policy Act (P.L. 91-190), the Grantee must take into account, where applicable, the criteria, standards, policies, and regulations of the following: (a) Historic Preservation Act of 1966; (b) Executive Order 11593; (c) The Reservoir Salvage Act of 1960;

(d) Flood Disaster Protection Act of 1973; (e) Executive Order 11988, Floodplain Management; (f) Executive Order 11990, Protection of Wetlands, (g) Coastal Zone Management Act of 1972; (h) the Safe Drinking Water Act of 1974; (i) the Endangered Species Act of 1973; (j) the Wild and Scenic Rivers Act of 1968; (k) the Clean Air Act ; (l) Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); (m) 24 CFR Part 51, Subpart B, Noise Abatement and Control; (n) Subpart C - Siting of HUD Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature; (o) and Subpart D - Siting of HUD Projects in Runway Clear Zones and Accident Potential Zones at Military Airfields. Before committing any funds (other than for exempt activities), the Grantee must certify to the State that it has complied with all requirements and obligations that are set forth by 24 CFR Part 58. In addition, the Grantee must submit all requested Evidentiary Material to the State for approval prior to the obligation of any funds (other than for exempt activities).

(10) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601) and HUD implementing regulations at 24 CFR Part 42 apply to the acquisition of real property for an activity assisted under this part and to the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition. The West Virginia Code, Chapter 54-3 also applies.

The Grantee must certify compliance with URA. Under Section 104(d) of the Act, each Grantee must adopt, make public and certify that it is following a residential anti-displacement and relocation assistance plan providing one-for-one replacement units and relocation assistance. The plan must also indicate the steps that will be taken to minimize the displacement of persons from their homes as a result of any activities assisted under this part all in accordance with 24 CFR Part 570.488(b).

(11) The State and the Grantee will comply with the provisions of the Department of Treasury Circular 1075 and/or the State's Small Cities Block Grant Handbook,

as revised, in the process of requesting and administering funds from the State's Letter of Credit.

(12) Funds provided under this agreement shall not be expended for acquisition or construction purposes in an area that has been identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless the community in which the area is situated is participating in the National Flood Insurance Program; and flood insurance is obtained in accordance with Section 102(a) of the Flood Disaster Protection Act of 1973.

(C) *Accounting.* The Grantee will establish a separate account for the proper recording of project costs in accordance with generally accepted accounting principles and procedures so as to reflect all receipts and allowable expenditures, including program income in connection with the said project and the purpose thereof. Program income generated prior to project closeout must be expended as received for project related activities in accordance with 24 CFR 570. If the Grantee received less than \$25,000 per state fiscal year in program income after closeout, the dollars received are not subject to provision of 24 CFR 570 and may be used at the Grantees discretion. If program income exceeds \$25,000 in any given state fiscal year after closeout, all program income earned must be expended in accordance with 24 CFR 570.489.

(D) *Audit.* Pursuant to provisions of Chapter 6, Article 9, Section 7 of the West Virginia Code, the Community Development Division has adopted the policy of accepting annual financial audits contracted or performed by the State Auditor's Office. The Grantee will include these funds to be audited with its yearly organization-wide audit. Audits shall be conducted in accordance with the provisions of the Office of Management and Budget (OMB) Circular A-133, and with standards established by the Comptroller General as specified in Standards for Audit of Governmental Organizations, Programs, Activities, and Functions. Units of local government will make audit reports available for public inspection within thirty (30) days after the completion of the audit.

(E) *Record Retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the grant shall be retained for a period of three years, with the following qualifications:

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

(2) Records for nonexpendable property acquired with Federal funds shall be retained for three years after its final disposition.

(3) Records for displacement shall be retained in accordance with the Small Cities Block Grant Handbook.

(4) The retention period starts from the date of the issuance of the final audit report.

(F) *Access to Records.* The Grantee and their assigned agents shall, at any time during normal business hours and as often as the State or its designated representatives deem necessary, make available for examination all records, books, accounts, reports, files, and other papers, things or property of the Grantee with respect to the matters covered by this Contract. All negotiated contracts awarded by the Grantee shall include a provision that the Comptroller General or any duly authorized representative of the State or HUD shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

(G) *Repayment.* The Grantee shall refund to the State or Federal government any expenditures determined to be made for an ineligible purpose for which Federal funds were received.

(H) *Competitive Procurement Procedures.* All procurement transactions, including professional services, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free

competition consistent with procedures identified in the Small Cities Block Handbook, 24 CFR Part 85, and with applicable local or State law.

The Grantee shall procure architect/engineer services in accordance with Chapter 5G of the West Virginia State Code and be in compliance with 24 CFR Part 85.

The Grantee shall procure construction contracts in accordance with Chapter 5-22-1 of the West Virginia State Code and be in compliance with federal regulations 24 CFR Part 85.

The Grantee shall solicit sealed bids for all construction-related contracts or supplies related to their project which has an estimated value of over \$25,000. All transactions under \$25,000 whether construction-related contracts, supplies, or professional services should be procured in a manner that provides maximum open and free competition and files are to be maintained to document such activities. Any attempts by the Grantee to segregate the project into sections in order to circumvent competitive procurement may be cause for termination of this Agreement under the provisions of Paragraph 9. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions of Article Three, Chapter Fifty-Nine of the Code of West Virginia. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area within a period of fourteen consecutive days with at least an interval of six full days within such period between the date of the first publication and the date of the second publication preceding the final date of submitting bids. The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, sending notification to the State's Small Business Development Center Division, and by posting notice on a bulletin board in a public place. The Grantee or their designated agent shall have available upon request for review by the State or its designated representative, bid documents and other evidence of compliance with these procedures. The resolution of bid and contract disputes is the responsibility of the Grantee.

Grantees have the ability to procure professional and construction services through the design-build method (5-22A-1). Public agencies can only utilize design-build on building project. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

(I) *Bonding and Insurance.* As otherwise required by law, a grant that requires the contracting or subcontracting for construction or facility improvements under \$100,000 shall provide for the Grantee to follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds provided that the Grantee's and State's interest is adequately protected and that such contracts can be executed in a timely manner; otherwise, bonding requirements shall be the same as for contracts exceeding \$100,000. If the contracts or subcontracts exceeds \$100,000, the minimum bonding and insurance requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with a contract to secure fulfillment of the contractor's obligations under such contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor or materials in the execution of the work provided for in the Contract.

(J) *Facilities Operation.* The Grantee shall operate and maintain all facilities to which the general public has right of access constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the

applicable Federal, State and local statute, law, ordinance, or regulation as to actual construction procedures. The Grantee shall be responsible for maintenance and operation of such facilities upon completion. The Grantee may not change the use or planned use of any such facility (including the beneficiaries of such use) from that purpose initially approved unless the Grantee provides affected citizens with reasonable notice thereof and opportunity to comment on any proposed change all in accordance with 24 CFR Part 570.489(j).

(K) *Conflict of Interest.* No officer, agent, consultant, employee, elected or appointed official of the State, the Grantee, or any public agency or subrecipient receiving Community Development Block Grant funds who exercises or has exercised any function or responsibilities with respect to activities assisted with Community Development Block Grant funds or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from such activity or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The conflict of interest provision of 24 CFR 85.36; 24 CFR 570.489 (g) and (h); and OMB Circular A-110 also apply as appropriate.

7. **Recovery of Capital Costs.** The Grantee will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds from this program by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements unless: (a) funds received are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from other revenue sources; or (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Grantee certifies to the State of West Virginia that it lacks sufficient funds received under the program to comply with the requirements of clause (a).

8. **Method of Payment.** In order to receive any and all payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. Upon receipt of said documents, the State shall review the same for reasonableness, appropriateness and eligibility and, if approved, will cause a warrant to be made on that sum to the Grantee for authorized expenditures from the State's Letter of Credit with the U.S. Department of Housing and Urban Development.

9. **Cost Underuns.** The State reserves the right to recapture all SCBG funds remaining due to cost underuns. The amount to be recovered will be prorated and proportional to the percent of actual total project expenditures.

10. **Termination of Contract for Cause.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner its obligations under this Contract or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this Contract by giving written notice to the Grantee to such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of the Contract by the Grantee, and the State may withhold any payments to the Grantee for the purpose of off-setting those damages until such time as the exact amount of damages due the State from the Grantee is determined.

11. **Termination for Convenience of the State.** The State may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the State as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

12. **Termination by the Grantee.** The Grantee may unilaterally rescind this Agreement at any time prior to the commencement of the project. After project commencement, this Agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the State makes any expenditure or incurs any obligation with respect to the project.

13. **Reporting.** A Final Performance Report shall be submitted to the State with the final request for payment for project costs, excluding final audit costs. Said Performance Report shall be made on the forms provided by the State and meet the requirements of said report as set forth in the Small Cities Block Grant Handbook and other program guidelines of the State of West Virginia. Other reports may be requested by the State during the grant period as the State deems necessary and directs.

14. **Final Closeout.** Final Closeout shall be completed when the State: (a) is in receipt of a Final Performance Report; (b) has determined that all monitoring findings have been formally addressed and are resolved; and (c) has received a completed, final project audit and has determined that any findings have been resolved.

15. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division of the West Virginia Development Office or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

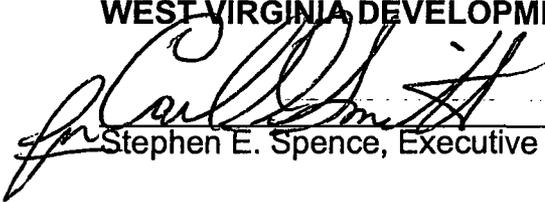
16. **Notice.** The parties hereto agree that notice shall be served when mailed certified U.S. Mail to the following addresses:

West Virginia Development Office
Community Development Division
Capitol Complex
Building 6, Room 553
Charleston, West Virginia 25305-0311

GRANTEE Logan County Commission
300 Stratton Street
Logan, West Virginia 25601

[WITNESSETH] that the parties hereto have entered their signatures hereafter with each representing to the other that the execution of this Agreement is done with full authority and that attached hereto and made a part hereof as Attachment B, is a certified copy of the resolution, motion, or similar action of the governing body of the Grantee directing and authorizing its official representative to act in connection with this Agreement.

STATE OF WEST VIRGINIA
WEST VIRGINIA DEVELOPMENT OFFICE



Stephen E. Spence, Executive Director

Logan County Commission



By: Arthur E. Kirkendoll, President

FEDERAL EMPLOYER IDENTIFICATION NUMBER

F.E.I.N.

SMALL CITIES BLOCK GRANT
SECTION I
PROJECT SUMMARY

1. Original:
 Admendment# _____
 Date: 7/24/2006

2. Applicant:
 Logan County Commission

3. F.E.I.N. of Applicant:
55-600343

4. Address of Applicant:
 Phone Number: (304)792-8626
 E-Mail Address: n/a
 300 Stratton Street
 Logan, WV 25305

5. Name/Address of Contact Person/
 Phone Number:
 Jim E. Boggs-Region II PDC
 P.O. Box 939
 Hufington, WV 25712

6. Project Name:
 Phase IIA Wastewater Project

7. County:
 Logan

8. Region:
 2
 Congressional District:
 3

9. Funding:

Type of Funding	Amount	Source of Funds
Small Cities Block Grant Request	\$ 1,500,000.00	Small Cities
Other State Grant	\$ 2,000,000.00	WVIJDC Grant
Other State Loan	\$ 4,000,000.00	WVIJDC Loan (0% for 40 years)
Other Federal Grant	\$	
Other Federal Loan	\$	
Local Funds	\$	
Private Funds	\$	
Other	\$	
er	\$	
Total	\$ 7,500,000.00	

10. Project Scope—Description of Project: * Use additional pages, if necessary.

The Phase IIA Wastewater Project consist of the construction of approximately 23,900 lf of 21" and smaller diameter gravity sewer pipe, 7,630 lf of 8" and smaller diameter force main, on major pump station, 1558 manholes, cleanouts service laterals and other related appurtenances to serve approximately 320 new customers in the Logan County communities of Ellis Addition, Lintz Addition, Thompson Town, Hedgeview and surrounding areas. This project will also serve the Southern West Virginia Community and Technical College and the Fountain Place Mall, for which this project is critical for continued development. Other activities include administration, engineering, land acquisition, permits, accounting, and legal. *

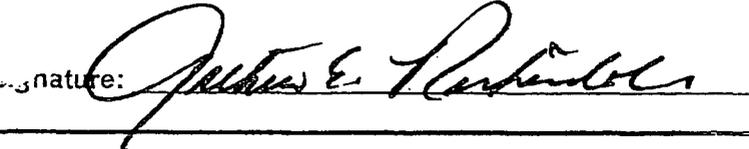
* Construction, interim financing, bond counsel, and project contingency will be paid from other project funds.

11. 783.59 Number of Persons to be Served 529.23 Number of L.M.I. Persons LMI 67.54%

12. To the best of my knowledge and belief, data in this proposal is true and correct, the submission thereof has been duly authorized by the governing body after appropriate citizen participation, and the applicant will comply with the attached assurances and certifications, if assistance is provided.

Typed Name: Arthur E. Kirkendoll

Title: President

Signature: 

Date: 07/24/2006

SECTION II: Project Budget

Continued

Activity Name: Phase IIA Wastwater Project

Cost Category	SCBG Funds	Other Funds	Source of Other Funds	Available (Yes or No)	Total Cost
Administration	\$50,000.00				\$50,000.00
Arch/Engineer	\$355,000.00				\$355,000.00
Land Acquisition	\$30,000.00				\$30,000.00
Permits	\$30,000.00				\$30,000.00
Accounting	\$10,000.00				\$10,000.00
Construction	\$985,000.00	\$5,860,000.00	WVIJDC Grant	Partially	\$6,845,000.00
Legal	\$40,000.00		& Loan	committed by	\$40,000.00
Planning Only				WVIJDC in	
Interim Financing		\$40,000.00	WVIJDC Loan	July-05	\$40,000.00
Bond Counsel		\$40,000.00	WVJDC Loan	"	\$40,000.00
Proj. Contingency		\$60,000.00	WVJDC Loan	"	\$60,000.00
Total	\$1,500,000.00	\$6,000,000.00			\$7,500,000.00

Water and Sewer

* LMI tap fee assistance must be provided to low-income persons/families. If funds are available, it should be provided to moderate-income persons/families.

Attach Cost Estimates and documentation regarding the "Status" of other Funds. If other funds are not currently available for expenditure, list the milestones to be achieved to obtain the other funds and estimated dates when the milestones will be achieved.

MILESTONE	ESTIMATED DATE
Commitment of Design Funding	July '05
Project Design Complete	September '06
Receipt of Construction Funding	December '06
Advertise for Bids	February '07
Bid Opening	March '07
Complete 100% Property Acquisition	April '07
Construction Award	May '07
Begin Construction	May '07
Construction Completion	June '08
Project Closeout	August '08

Name of firm or individual who completed the cost estimate(s):

Rick Roberts, P.E. Managing Engineer, Logan County Public Service District

Date of cost estimate(s):

February 2006

Section 4

ASSURANCES

Community Development Block Grant Small Cities Program

The applicant hereby assures and certifies that:

- A. It possesses legal authority for the grant and to execute the proposed program.
- B. Its governing body has duly adopted or passed an official act as resolution, motion, or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- C. Prior to submission of its application to the state, the applicant has met the citizen participation requirements of the Act.
- D. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with the Title I funds by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (a) Title I funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I funds; or (b) for purposes of assessing any amount against properties owned and occupied by persons of low- and moderate-income who are not persons of very low income, it certifies to the state that it lacks sufficient Title I funds to comply with the requirements of clause (a).
- E. It is following a written and detailed citizen participation plan which:
 - 1. Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and moderate-income who are residents of slums and blighted areas and of areas in which funds are proposed to be used and provides for participation of residents in low- and moderate-income neighborhoods as defined by the local jurisdiction;
 - 2. Provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds, as required by regulations of the Secretary of the U.S. Department of Housing and Urban Development and relating to the actual use of funds under this title;
 - 3. Provides for technical assistance to groups representative of persons of low- and moderate-income that request such assistance in developing proposals with the level and type of assistance to be determined by the grantee;
 - 4. Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including at least the

development needs, the review of proposed activities, and review of program performance, the hearings which shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodations for the handicapped.

5. Provides for a timely written answer to written complaints and grievances within 15 working days were practicable; and
6. Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

F. The applicant further certifies that it has, prior to submitting its Final Statement to the state:

1. Furnished citizens with information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount proposed to be used for activities that will benefit persons of low- and moderate-income and plans for minimizing displacement of persons as a result of activities assisted with such funds and to assist persons actually displaced as a result of these activities;
2. Developed a community development plan for the grant period that identifies community development and housing needs and specifies both short- and long-term community development objectives that have been developed in accordance with the primary objectives and requirements of the Act and, if the activities selected serve beneficiaries that are not residents of its jurisdiction, has determined that the activities selected are meeting its needs in accordance with Section 106(d)(2)(D) of the Act;
3. Published a proposed statement in such manner and in sufficient detail to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the applicant;
4. Provided adequate notice of public meetings;
5. Held one or more public hearing to obtain the views of citizens on community development and housing needs;
6. Considered all comments and view prior to completing the Final State; and
7. Made the Final Statement available to the public.

G. Its chief executive officer or other officer:

1. Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969, and

~~2. Authorizes and consents on behalf of the applicant and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of their responsibilities as such an official.~~

H. The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families; meet other community development needs having particular urgency because an existing condition poses a serious immediate threat to the health and welfare of the community, and other financial resources are not available to meet such needs; or aid in the prevention or elimination of blighted or deteriorated areas.

I. It will comply with the regulations, policies, guidelines, and requirements of the state as they relate to the application, and acceptance and use of funds to include Subpart I of CFR 570 and supplemental parts of 24 CFR Part 570 as specifically made applicable by the state to the extent expressly referred to.

J. It will administer and enforce the labor standards requirements set forth in 24 CFR 570.603 and HUD regulations issued to implement such requirements.

K. It will comply with all requirements by the state and/or federal government concerning special requirements of law, program requirements, and other administrative requirements.

L. It will comply with the provisions of Executive Order 11988 relating to evaluation of flood hazard and Executive Order 11990 relating to the prevention, control, and abatement of water pollution.

M. Its notification, inspection, testing, and abatement procedures concerning lead-based paint will comply with 24 CFR 570.487, and procedures adopted by the state.

N. It will require every building or facility (other than a privately-owned residential structure) designed, constructed, or altered with funds provided under this part, to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1-R-1971, subject to the exceptions contained in 41 CFR 101-19.604. The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

O. It will comply with:

1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and the regulations issued pursuant there to (24 CFR Part 601) which provides that no persons in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any program or activity for which the applicant received federal financial assistance, and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of federal financial assistance extend to the applicant, this assurance shall obligate the applicant or, in the case of any transfer of such property, any transfer, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

2. Title VII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, administering all programs and activities relating to housing and community development, in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services.
 3. Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.602), which provides that no persons in the United States shall, on the grounds of race, color, national origin, religion, or sex, be subjected to discrimination under any program or activity funded in part with funds provided, including discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 and the regulation issued pursuant thereto (24 CFR Part 8).
 4. Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with federal assistance.
 5. Executive Order 11246, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60), which provides that no persons shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally-assisted construction contracts. Contractors and subcontractors on federal and federally assisted construction contracts shall take affirmative action to ensure fair treatment in employment upgrading, demotion or transfer, recruitment or recruiting; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training and apprenticeship.
- P. It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that, to the greatest extent feasible, opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in, the area of the project.
- Q. It will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Federal Implementing Regulation at 49 CFR Part 24, and the requirements of Section 570.488, and is following a residential anti-displacement and relocation assistance plan under section 104(d) of the Act, and will minimize displacement of persons as a result of activities assisted with CDBG funds.
- R. It will establish safeguards to prohibit employees from using positions for a purpose that is, or gives the appearance of being, motivated by a desire for a private gain for themselves or others, particularly those with who, they have family, business, or other ties as required by State Law and 24 CFR 570.489(h).
- S. It will comply with the provisions of the Hatch Act, which limits the political activity of employees.

- T. It will give the State of West Virginia, HUD, and the General Accounting Office, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
-
- U. It will ensure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the program area not listed on the Environmental Protection Agency's (EPA) List of Violating Facilities, and it will notify the state of the receipt of any communication from the Director of the EPA's Office of Federal Activities indicating that a facility to be used in the project under consideration for listing by EPA.
- V. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, P.L. 93-234, 97 Stat. 875, and approved December 31, 1973. Section 103(a) required on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any form of direct or indirect federal assistance.
- W. It will, in connection with its performance of environmental assessments under the National Environmental Policy Act of 1969, comply with Section 106 of the National Historic Preservation Act of 1968 (16 U.S.C. 470), Executive Order 11593, and the Preservation of Archaeological and Historical Data Act of 1966 (16 U.S.C. 468a-11 et. seq.) by:
1. Consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 26 CFR Part 800.8) by the proposed activity, and
 2. Complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.
- X. It will provide and maintain competent and adequate architectural engineering supervision and inspection at all construction sites to ensure that the complete work conforms to the approved plans and specifications and that all contract provisions have been complied with.
- Y. It will not use funds directly or indirectly to employ, awards contract to, or otherwise engage the services of a debarred, suspended, or ineligible contractor or subcontractor.
- Z. It will assume responsibility to ensure that all program funds are accounted for consistent with program objectives and all federal, state, and local laws and regulations.
- AA. It will cause the project to be audited in accordance with OMB Circular A-133, and will promptly refund to the state any funds received that are not supported by audit.
- BB. It certifies to the best of its knowledge and belief, that:

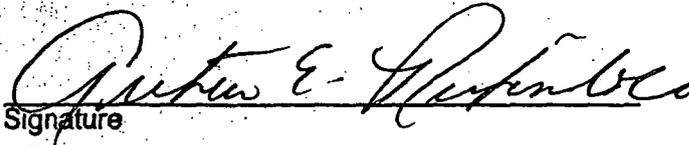
1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of any member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-L, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- CC. It has been adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in nonviolent civil rights demonstrations; and is enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.
- DD. It is in compliance with the provisions of Section 504 of the HUD Act, or will take appropriate steps to ensure compliance.
- EE. It will comply with Section 102 of the HUD Reform Act of 1989, and CFR Part 12 in regard to the disclosure of interest in projects exceeding \$200,000 in the aggregate.

Arthur E. Kirkendoll

Printed Name



Signature

President, Logan Cove Commission

Chief Elected Official Title

July 27, 2006

Date

RECEIVED
MAY 24 2007

AT A REGULAR MEETING OF THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA, HELD AT THE COUNTY COURTHOUSE THEREOF, ON THE 22ND DAY OF MAY, 2007, THE FOLLOWING ORDER WAS MADE AND ENTERED:

IN THE MATTER OF AUTHORIZING THE SIGNING OF THE SMALL CITIES BLOCK GRANT CONTRACT FOR THE LOGAN COUNTY PHASE IIA WASTEWATER PROJECT:

THE FOLLOWING RESOLUTION WAS OFFERED BY ARTHUR E. KIRKENDOLL, PRESIDENT:

RESOLVED: THE COUNTY COMMISSION OF LOGAN COUNTY DOES HEREBY AUTHORIZE THE SIGNING OF THE SMALL CITIES BLOCK GRANT CONTRACT FOR THE LOGAN COUNTY PHASE IIA WASTEWATER PROJECT, WHICH UTILIZES U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FUNDS.

WHEREAS: ARTHUR E. KIRKENDOLL IS AUTHORIZED TO SIGN THIS CONTRACT IN THE AMOUNT OF \$1,500,000.00 FY 2006 FUNDING FOR THE IMPLEMENTATION OF THE ABOVE-MENTIONED PROJECT.

THE ADOPTION OF THE FOREGOING RESOLUTION HAVING BEEN MOVED BY Godby, COMMISSIONER, AND DULY SECONDED BY AKERS, COMMISSIONER, THE VOTE THEREON WAS AS FOLLOWS:

ARTHUR E. KIRKENDOLL, PRESIDENT: AYE
DANNY R. GODBY, COMMISSIONER: AYE
WILLIE D. AKERS, JR., COMMISSIONER: AYE.

WHEREUPON, ARTHUR E. KIRKENDOLL, PRESIDENT, DECLARED SAID RESOLUTION DULY ADOPTED; AND, IT IS THEREFORE ADJUDGED AND ORDERED THAT SAID RESOLUTION BE, AND THE SAME IS, HEREBY ADOPTED.

Arthur E. Kirkendoll 5/22/07
ARTHUR E. KIRKENDOLL, PRESIDENT

Danny R. Godby 5/22/07
DANNY R. GODBY, COMMISSIONER

Willie D. Akers, Jr. 5/22/07
WILLIE D. AKERS, JR., COMMISSIONER

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/08/2008

PRODUCER (304)375-4900 FAX (304)375-5843
 Bill Bailey Insurance Agency
 701 Highland Avenue
 P. O. Box 246
 Williamstown, WV 26187

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE		NAIC #
INSURER A	American Alternative Insurance	
INSURER B		
INSURER C		
INSURER D		
INSURER E		

INSURED Logan County PSD
 P.O. Box 506
 Logan, WV 25601

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 ADD LTR	INSRB	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	SP9153917	03/29/2008	03/29/2009	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP-OP AGG \$ 3,000,000
		AUTO:MOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> H.RED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BOD:LY INJURY (Per person) \$ BOD:LY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	SX9251386	03/29/2008	03/29/2009	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR, PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				INC STATUS: TORY LIMITS OTH-ER E L EACH ACCIDENT \$ E L DISEASE - EA EMPLOYEE \$ E L DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 The Certificate Holder listed below is listed as an Additional Insured in reference to the Phase II Project.

CERTIFICATE HOLDER

CANCELLATION

WV Water Development Authority
 180 Association Drive
 Charleston, WV 25321

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

LOGAN COUNTY PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2008 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.17

RECEIPT OF PAYMENT OF NOTES

On this 9th day of April, 2008, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Waterworks System Design Notes, Series 2005 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 \$154,000, bearing interest at the rate of 0% per annum, hereby certifies that it has received the sum of \$146,300 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 9th day of April, 2008.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

Barbara B Meadows
Authorized Representative

1210/330

{C1248819.1}

CLOSING MEMORANDUM

3.18

**To: Rick Roberts
Jefferson Brady
Barbara Meadows
Sara Boardman
Samme Gee**

From: Ryan White

Date: April 9, 2008

**Re: Logan County Public Service District Sewer Revenue Bonds,
Series 2008 A (West Virginia Infrastructure Fund)**

1. DISBURSEMENTS TO DISTRICT

Payor: West Virginia Infrastructure Fund
Source: Series 2008 A Bonds Proceeds
Amount: \$95,943
Date: April 9, 2008
Form: Wire Transfer
Payee: Logan County Public Service District
Bank: Logan Bank and Trust
Routing No.: 051501024
Account No.: 0070912
Account: Series 2008 A Bonds Construction Trust Fund

2. DISBURSEMENTS TO MUNICIPAL BOND COMMISSION

Payor: West Virginia Infrastructure Fund on behalf of District
Source: Series 2008 A Bonds Proceeds
Amount: \$146,300
Date: April 9, 2008
Form: Wire Transfer
Payee: West Virginia Municipal Bond Commission
Bank: Branch Banking & Trust
Routing No.: 051503394
Account No.: 5270517317

Contact: West Virginia State Treasurer for West Virginia
Municipal Bond Commission

Account: Notes Payment Fund, to pay in full the Logan County
Public Service District Sewerage System Design
Notes, Series 2005 A (West Virginia Infrastructure
Fund), dated November 17, 2005.

1210/330

April 9, 2008

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 Sewer Revenue Bonds,
Series 2008 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 Sewer Revenue Bonds, Series 2008 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 9, 2008, 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 \$4,500,000 in the form of one bond, registered to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2009, 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

{C1248824.1}

outstanding principal of and all accrued interest and administrative fees on the Issuer's Sewerage System Design Notes, Series 2005 A (West Virginia Infrastructure Fund), heretofore issued to pay the costs of design of the Project (hereinafter defined); (ii) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer 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 8, 2008, as supplemented by a Supplemental Resolution duly adopted by the Issuer on April 8, 2008 (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

Logan County Public Service District
West Virginia Infrastructure and Jobs Development Council
West Virginia Water Development Authority
April 9, 2008
Page 3

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, if any, 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, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the 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,



1210/330



James A. Walker



Counselor and Attorney at Law

218 Stratton Street
Post Office Box 358
Logan, West Virginia 25601

Walker Building
Phone (304) 752-0757
Fax (304) 752-0758

April 9, 2008

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: Logan County Public Service District Sewer Revenue Bonds,
Series 2008 A (West Virginia Infrastructure Fund)

Dear Sirs and Madames:

I am counsel to 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 (collectively, the "Bonds"), a loan agreement for the Series 2008 A Bonds, dated April 9, 2008, including all schedules and exhibits attached thereto, by and between the Issuer and the Authority, on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council") (the "Loan Agreement"), a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on April 8, 2008, as supplemented by a Supplemental Resolution duly adopted on April 8, 2008 (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

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Logan County Public Service District Sewer Revenue Bonds,
Series 2008 A (West Virginia Infrastructure Fund)

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 other parties thereto, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

4. The Resolution has been duly adopted by the 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

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Logan County Public Service District Sewer Revenue Bonds,
Series 2008 A (West Virginia Infrastructure Fund)

permits, approvals, orders and certificates from The County Commission of Logan County, the DEP, the Council and the Public Service Commission of West Virginia (the "PSC"). 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 order of the PSC entered on November 15, 2007, in Case No. 07-1348-PSD-ECN, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the Project. The time for appeal of the PSC order entered November 15, 2007, has expired prior to the date hereof without any appeal having been filed. The order remains in full force and effect. The rates for the System, as approved by the PSC in an order entered on October 16, 2007, in Case No. 07-1206-PSD-42T, became effective on November 30, 2007.

7. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the 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.

8. 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 interest of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the 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.

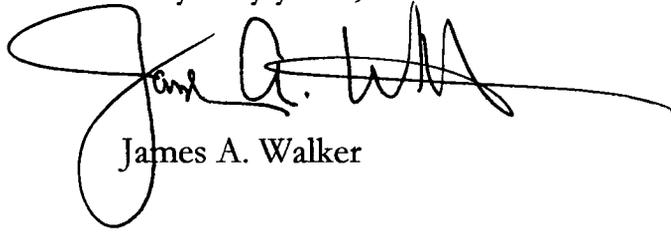
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Logan County Public Service District Sewer Revenue Bonds,
Series 2008 A (West Virginia Infrastructure Fund)

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

A handwritten signature in black ink, appearing to read "James A. Walker". The signature is stylized with a large initial "J" and a long horizontal flourish extending to the right.

James A. Walker



James A. Walker



Counselor and Attorney at Law

218 Stratton Street
Post Office Box 358
Logan, West Virginia 25601

Walker Building
Phone (304) 752-0757
Fax (304) 752-0758

April 9, 2008

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

Dear Sirs and Madames:

I am counsel to Logan County Public Service District (the "Issuer") in connection with a proposed project to acquire and construct certain improvements and extensions to the existing public sewer 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 acquire, construct, operate and maintain the Project as approved by the DEP.

April 9, 2008

Final Title Opinion for Logan County Public Service District

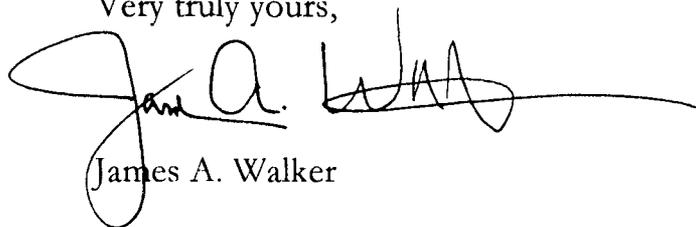
2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

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, Incorporated, 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, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. 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 to protect the legal title to and interest of the Issuer.

Very truly yours,

A handwritten signature in black ink, appearing to read "James A. Walker", with a long horizontal flourish extending to the right.

James A. Walker