$315,000
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

Closing Date: June 5, 2015

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ATTORNEYS AT LAW PLLC

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State of West Virginia

Certificate

I, Natalie E. Tennant, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2014 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

May 28, 2015

Natalie E Tennant

Secretary of State

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

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§ 16–13A–1. Legislative findings

The Legislature of the state of West Virginia hereby determines and finds that the present system of public service districts within the state has provided a valuable service at a reasonable cost to persons who would otherwise have been

unable to obtain public utility services. To further this effort, and to insure that all areas of the state are benefiting from the availability of public service district utility services and to further correct areas with health hazards, the Legislature concludes that it is in the best interest of the public to implement better management of public service district resources by expanding the ability and the authority of the public service commission to assist public service districts by offering advice and assistance in operational, financial and regulatory affairs.

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

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

Cross References

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

Administrative Code References

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

Library References

Counties ⇐18.
Municipal Corporations ⇐5, 6.
Public Utilities ⇐145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6,

§ 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4056; Municipal Corporations ⟹ 4

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4416; Municipal Corporations ⟹ 408(1)

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2355; Municipal Corporations ⟹ 4

2. In general

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

Creation and operation of water or sanitary districts or authorities by issuance of revenue bonds payable from revenues are authorized. Code, 16-13A-1 et seq. State ex rel. Appalachian Power Co. v. Gainer, 1965, 143 S.E.2d 351, 149 W.Va. 740. Health ⟹ 369; Waters And Water Courses ⟹ 183.5

A county court may use Federal Revenue Sharing Funds for ordinary and necessary maintenance and operating expenses for sewage disposal, sanitation, and pollution abatement, and ordinary and necessary capital expenditures authorized by law but may not use such funds for matching purposes under any other federal-aid program. 55 W.Va. Op.Atty.Gen. 116 (June 27, 1973) 1973 WL 159152.

3. Construction and application

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

4. Eminent domain powers

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

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

5. Property of public service district

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⟹ 2289

6. Rates and charges for service

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

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

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

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

7. Creation and enforcement of liens

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

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16–13A–9, 38–10C–1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⟹ 14.6; Municipal Corporations ⟹ 712(7); Waters And Water Courses ⟹ 203(14)

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

8. Admissibility of evidence

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

9. Costs

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

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

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

(a) To study, modify, approve, deny or amend the plans created under section one-b of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

(b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters.

Acts 1986, c. 81.

Library References

Public Utilities ⟹145. Westlaw Topic No. 317A.

C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

In general 1

1. In general

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

Legislature sought to establish in Public Service Commission (PSC) governmental entity which would protect public from unfair rates and practices by public utilities and also ensure that public utilities are given competitive return for their stockholders. Code, 24-2-3. State ex rel. Water Development Authority v. Northern Wayne County Public Service Dist., 1995, 464 S.E.2d 777, 195 W.Va. 135. Public Utilities ⟹ 123; Public Utilities ⟹ 129

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

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

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

Cross References

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

Library References

Counties ⟹18, 47.
Westlaw Topic No. 104.
C.J.S. Counties §§ 31, 70 to 73.

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

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

ment and any other activities required by state and federal law: Provided, however, That the term "stormwater management program" or "stormwater management programs" does not include those activities associated with the management, operation, maintenance and control of highways, road and drainage easements, or stormwater facilities constructed, owned or operated by the West Virginia division of highways without the express agreement of the commissioner of highways.

Acts 1986, c. 81; Acts 2002, c. 272, eff. 90 days after March 9, 2002.

Library References

Counties ⟹18.
Gas ⟹12.
Municipal Corporations ⟹5, 6.
Waters and Water Courses ⟹183.5.
Westlaw Topic Nos. 104, 190, 268, 405.

C.J.S. Counties § 31.
C.J.S. Gas §§ 43 to 45.
C.J.S. Municipal Corporations § 11.
C.J.S. Waters §§ 483, 543 to 581.

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

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

except upon the adoption of a resolution of the governing body of the city, incorporated town or other municipal corporation consenting.

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

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

(d) In all cases where proceedings for the creation, enlargement, reduction, merger, dissolution or consolidation of the public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of the notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing

the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

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

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

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

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

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

Library References

Counties ⟹47.
Municipal Corporations ⟹6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

Costs 6
Creation of public service districts 2
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Notice of hearing 4
Number of voters within district 5
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1. Validity

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5).

Statute authorizing creation of public service districts does not, in so far as it requires County Court to define territory to be included in public service district and appoint a board to govern same in first instance, involve unconstitutional delegation of judicial functions to the County Court. Acts 1953, c. 147; Const. art. 8, § 24.

State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2355; Municipal Corporations ⟹ 4

2. Creation of public service districts

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

Where public service district was created for purpose of furnishing water services, county court had authority to add sewerage services to the facilities of the district under appropriate proceedings. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 270

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

3. District boundaries

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

4. Notice of hearing

Provisions of statute, with respect to creation of public service districts, which relate to the filing of the petition or motion of the county court, the description of the territory to be embraced, and like provisions are mandatory; but, despite use of the word "shall," the requirements for posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Code, 16–13A–2. Canyon Public Service Dist. v. Tasa Coal Co., 1973, 195 S.E.2d 647, 156 W.Va. 606. Municipal Corporations ⟹ 12(3); Municipal Corporations ⟹ 12(6)

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

5. Number of voters within district

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

6. Costs

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

7. Referendum

A public service district, once created by county court, not subject to referendum on issue to continue or be abolished. 52 W.Va. Op.Atty. Gen. 33 (August 11, 1966) 1966 WL 87428.

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

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal and may enter into

contracts necessary or incidental to its purposes, including contracts with any city, incorporated town or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town or other municipal corporation, or for furnishing stormwater services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: Provided, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

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

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

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

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

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

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

Any vacancy shall be filled for the unexpired term within thirty days; otherwise successor members of the board shall be appointed for terms of six

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

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. Duplicate records shall be filed with the county commission and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds of the public service district and shall pay same out on orders authorized or approved by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of the district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and benefit of the district.

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

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

Law Review and Journal Commentaries

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

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

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Counties ⟹18.
Municipal Corporations ⟹6.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 1
Criminal responsibility of members 5
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Removal of members 4
Sale of water 6
Standard of care 2
Tort Claims Act 7

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary

for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

2. Standard of care

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

3. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⇐ 55; Judges ⇐ 21

4. Removal of members

Public Service District board member can be removed by majority vote of registered voters. 51 W.Va. Op.Atty.Gen. 564 (November 10, 1965) 1965 WL 92492.

5. Criminal responsibility of members

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61-10-15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⇐ 60

6. Sale of water

Public Service Districts may sell, at wholesale, bulk water to other municipal corporations. 51 W.Va. Op.Atty.Gen. 739 (March 16, 1966) 1966 WL 87469.

7. Tort Claims Act

Tort Claims Act's protection extended to public service districts, under the Act's definition of political subdivision, which included the term "public service districts," despite general authorization for public service districts to "sue and be sued," in the Public Health statutes. Zirkle v. Elkins Road Public Service Dist., 2007, 655 S.E.2d 155. Waters And Water Courses ⇐ 183.5

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

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

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

Library References

Counties ⟹45.
Public Utilities ⟹145.
Westlaw Topic Nos. 104, 317A.

C.J.S. Counties § 67.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Notes of Decisions

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Ministerial officers, generally 2
Sufficiency of evidence 3

1. Criminal responsibility of members

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

2. Ministerial officers, generally

Public policy of West Virginia, as evidenced by statute making it unlawful for county or district board member or officer to be or become pecuniarily interested in proceeds of any contract or service over which he might have any voice, influence, or control, is not directed against actual fraud or collusion but is for purpose of preventing those acts and eliminating any opportunity therefor, and purpose of statute is to protect public funds and give official recognition to fact that person cannot properly represent public in transacting business with himself. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Courts ⟹ 55; Judges ⟹ 21

3. Sufficiency of evidence

County commissioner's conviction for being or becoming pecuniarily interested in contract over which he might have some voice or influence was supported by evidence of his continued performance of contract maintenance work for public service district after his election to commission. Code, 61–10–15. State v. Neary, 1987, 365 S.E.2d 395, 179 W.Va. 115. Counties ⟹ 60

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

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

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

(b) Salaries of the board members are:

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

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

(3) For districts with two thousand customers or more, up to one hundred twenty-five dollars per attendance at regular monthly meetings and seventy-five

dollars per attendance at additional special meetings, total salary not to exceed three thousand seven hundred fifty dollars per annum; and

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

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

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

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

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

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

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

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

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

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

(f) The members of the board are not personally liable or responsible for any obligations of the district or the board, but are answerable only for willful

misconduct in the performance of their duties. The county commission which created a district or county commissions if more than one created the district, may, upon written request of the district, adopt an order changing the official name of a public service district: *Provided,* That such name change will not be effective until approved by the public service commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located.

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

Library References

Counties ⚷68, 87.
Municipal Corporations ⚷161.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 107 to 118, 128.
C.J.S. Municipal Corporations §§ 372 to 390.

Notes of Decisions

In general 1

1. In general

Board members of the Mt. Zion Public Service District cannot be compensated for performing the duties of treasurer and/or secretary for the Mt. Zion Public Service District; furthermore, a board member may not be compensated for reading meters for the Mt. Zion Public Service District. 63 W.Va. Op.Atty.Gen. 2 (July 14, 1988) 1988 WL 483329.

§ 16–13A–5. General manager of board

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

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

The board of any public service district which purchases water, sewer or stormwater service from a municipal water, sewer or stormwater system or

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

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

Library References

Counties ⇐65, 68.
Municipal Corporations ⇐149, 161.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties §§ 101 to 103, 107 to 118.
C.J.S. Municipal Corporations §§ 361 to 366, 368, 372 to 390.

§ 16-13A-6. Employees of board

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

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

Library References

Counties ⇐65, 68, 87.
Municipal Corporations ⇐149, 161, 170.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties §§ 101 to 103, 107 to 118, 128.
C.J.S. Municipal Corporations §§ 361 to 366, 368, 372 to 405.

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than fifteen thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent

possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

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

Library References

Counties ⚷107.
Municipal Corporations ⚷711.
Public Utilities ⚷114.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations § 1535.
C.J.S. Public Utilities §§ 5 to 9, 202 to 207.

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

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

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

and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

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

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

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

Library References

Counties ⟹103, 104.
Eminent Domain ⟹6, 16.
Municipal Corporations ⟹221, 224.
Westlaw Topic Nos. 104, 148, 268.

C.J.S. Counties §§ 143 to 144, 147.
C.J.S. Municipal Corporations §§ 873 to 880.
C.J.S. Property § 17.

Notes of Decisions

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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-

ter and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

Property of public service district is public property used for public purposes, and, under constitutional provision that public property shall be exempt from taxation, statute authorizing creation of public service districts and granting tax exemption was not violative of constitutional provision requiring that taxation be equal and uniform throughout state. Acts 1953, c. 147, § 1 et seq.; Const. art. 10, § 1. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Taxation ⟹ 2289

2. In general

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2510

3. Eminent domain powers

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

Statute providing that private property may be taken or damaged for a number of specified purposes is consonant with organic law and is constitutional. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Eminent Domain ⟹ 3

4. Valuation of property

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

5. Environmental assessment

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

6. Connections with sewers or drains

City, rather than sewer and water districts, was entitled to provide sewer and water services to newly developed tract that was within districts' boundaries, but was annexed to city, where such services were not previously furnished to tract. Code, 16–13A–8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⟹ 712(1); Waters And Water Courses ⟹ 201

If a tract of real estate located within a public service district has been annexed into a municipality, then, as between the municipality and the public service district, the municipality has the superior right to extend water and/or sewer service which were not being previously furnished to the tract by the public service district, and under those circumstances, a public service district would need the consent of the municipality and the Public Service Commission (PSC) in order to provide such service. Code, 16–13A–8. Berkeley County Public Service Sewer Dist. v. West Virginia Public Service Com'n, 1998, 512 S.E.2d 201, 204 W.Va. 279. Municipal Corporations ⟹ 712(1); Waters And Water Courses ⟹ 201; Waters And Water Courses ⟹ 202

7. Public corporation

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

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

(a)(1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management,

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or stormwater systems or stormwater management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and munici-

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

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in section three, article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven, article eleven, chapter twenty-two of this code, is exempt from the provisions of this section.

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

Law Review and Journal Commentaries

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

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

Library References

Gas ⟹14.6.
Municipal Corporations ⟹712.
Waters and Water Courses ⟹203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

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

1. Validity

In statute authorizing creation of public service districts, provision for delinquent fixed rates and charges for services rendered to be lien on premises served was not unconstitutional as depriving owners of property without due process of law or as violating Fourteenth Amendment of United States Constitution or applicable provisions of State Constitution. Acts 1953, c. 147, § 1 et seq.; Const. art. 3, §§ 9, 10; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4416; Municipal Corporations ⟹ 408(1)

2. Takings

Public service district's requiring property owner to connect onto its sewer system and to abandon private sewer system located on property was not a taking of private property without just compensation. Const. Art. 3, § 9; Code, 16-13A-9; U.S.C.A. Const.Amend. 5. Kingmill Valley Public Service Dist. v. River-

view Estates Mobile Home Park, Inc., 1989, 386 S.E.2d 483, 182 W.Va. 116. Eminent Domain ⟹ 2.18

Statute providing that private property may be taken or damaged for a number of specified purposes amounts to legislative declaration of public purposes within meaning of laws, and it is a judicial question whether such declaration is consonant with organic law. Acts 1949, c. 59; Const. art. 3, § 9. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2510

3. Public service district liens

Public service district liens must be docketed to be enforceable against purchaser of property for valuable consideration, without notice. Code, 16-13A-9, 38-10C-1. McClung Investments, Inc. v. Green Valley Community Public Service Dist., 1997, 485 S.E.2d 434, 199 W.Va. 490. Gas ⟹ 14.6; Municipal Corporations ⟹ 712(7); Waters And Water Courses ⟹ 203(14)

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

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

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

4. Rates and charges for service

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

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

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

5. Notice of availability of sewer service

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

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

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that

the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought.

Acts 1982, c. 74.

Library References

Gas ⟹14.6.
Municipal Corporations ⟹712.
Waters and Water Courses ⟹203.
Westlaw Topic Nos. 190, 268, 405.

C.J.S. Gas §§ 64, 84 to 85.
C.J.S. Municipal Corporations § 1535.
C.J.S. Waters §§ 483, 666 to 732.

§ 16–13A–10. Budget

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board.

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

Library References

Counties ⟹154.5.
Municipal Corporations ⟹879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–11. Accounts; audit

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders

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

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

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

Library References

Counties ⇐154.5.
Municipal Corporations ⇐879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

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

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

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

Library References

Counties ⇐158.
Municipal Corporations ⇐883.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 198.
C.J.S. Municipal Corporations §§ 1626, 1635.

§ 16–13A–13. Revenue bonds

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

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

Library References

Counties ⟹174.
Municipal Corporations ⟹911.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1649.

Notes of Decisions

In general 1

1. In general

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

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

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

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

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

Library References

Counties ⇐154.5.
Municipal Corporations ⇐879.
Westlaw Topic Nos. 104, 268.

C.J.S. Municipal Corporations §§ 1621 to 1622.

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

In the discretion and at the option of the board such bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be a trust company or bank having powers of a trust company within or without the State of West Virginia, but no such trust indenture shall convey, mortgage or create any lien upon the public service properties or any part thereof. The resolution authorizing the bonds and fixing the details thereof may provide that such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable

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

Acts 1953, c. 147.

Library References

Counties ⟹183.
Municipal Corporations ⟹950(15).
Westlaw Topic Nos. 104, 268.

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

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

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

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

Acts 1953, c. 147.

Library References

Counties ⟹186.5.
Municipal Corporations ⟹951.
Westlaw Topic Nos. 104, 268.

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

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

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

Acts 1953, c. 147.

Library References

Counties ⟹188.
Municipal Corporations ⟹937, 955.
Westlaw Topic Nos. 104, 268.

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–18. Operating contracts

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

Acts 1953, c. 147.

Library References

Counties ⟹114.
Municipal Corporations ⟹328.
Westlaw Topic Nos. 104, 268.

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

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

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

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

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

Library References

Counties ⟹110.
Municipal Corporations ⟹225.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 147.
C.J.S. Municipal Corporations §§ 882 to 892.

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

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

Acts 1953, c. 147.

Library References

Counties ⟹188.
Municipal Corporations ⟹937, 955.
Westlaw Topic Nos. 104, 268.

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

Notes of Decisions

In general 1

1. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

§ 16-13A-20. Refunding revenue bonds

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding

bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded.

Acts 1953, c. 147.

Library References

Counties ⟹175.
Municipal Corporations ⟹913.
Westlaw Topic Nos. 104, 268.
C.J.S. Counties § 218.
C.J.S. Municipal Corporations §§ 1647 to 1648, 1651.

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

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

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

Library References

Counties ⟹18.
Municipal Corporations ⟹5.
Taxation ⟹2316, 3519.
Westlaw Topic Nos. 104, 268, 371.
C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

Notes of Decisions

In general 2
Validity 1

1. Validity

Statute authorizing creation of public service districts violates no provision of State Constitution, nor is it violative of Fourteenth Amendment to United States Constitution. Act 1953, c. 147; U.S.C.A.Const. Amend. 14. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 4056; Municipal Corporations ⟹ 4

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

delegation of judicial functions to the County Court, Acts 1953, c. 147; Const. art. 8, § 24. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Constitutional Law ⟹ 2355; Municipal Corporations ⟹ 4

2. In general

Statute authorizing creation of public service districts confers upon public service board authority to create mortgage lien on the property of public service district, and action of legislature conferring such authority was within the legislature's power. Acts 1953, c. 147; Const. art. 10, § 8. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Municipal Corporations ⟹ 222; Municipal Corporations ⟹ 225(1)

Title of act authorizing creation of public service districts in connection with acquisition, construction, maintenance, operation, improvement and extension of properties supplying water and sewerage services, clearly defines object and purposes of act and powers of governing board, and is sufficient to meet constitutional requirements. Acts 1953, c. 147; Const. art. 6, § 30. State ex rel. McMillion v. Stahl, 1955, 89 S.E.2d 693, 141 W.Va. 233. Statutes ⟹ 123(3); Statutes ⟹ 123(5)

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

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

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

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

Library References

Counties ⟹18.
Municipal Corporations ⟹5.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
C.J.S. Municipal Corporations § 11.

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

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

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

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

Library References

Counties ⟹47.
Municipal Corporations ⟹166.
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 70 to 73.
C.J.S. Municipal Corporations §§ 369 to 371.

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

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

advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument.

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

Library References

Counties ⇐149.
Municipal Corporations ⇐864(3).
Westlaw Topic Nos. 104, 268.

C.J.S. Counties §§ 185, 187.
C.J.S. Municipal Corporations §§ 1583 to 1585, 1587.

Notes of Decisions

In general 1

1. In general

The borrowing by PSD's of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. 62 W.Va. Op.Atty.Gen. 27 (May 6, 1988) 1988 WL 483331.

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

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

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

(1) Experience with the same engineering firm; or

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

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

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

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

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

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

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

(e) Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the Public Service Commission in accordance with the provision of chapter twenty-four of this code when a public service district is seeking to acquire or construct public service property.

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

Library References

Counties ⟹114.
Municipal Corporations ⟹270.
Public Utilities ⟹145.
Westlaw Topic Nos. 104, 268, 317A.

C.J.S. Counties § 161.
C.J.S. Public Utilities §§ 26 to 32, 159 to 167, 169 to 171, 177 to 178.

Research References

ALR Library

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

Notes of Decisions

In general 1
Certificate of public convenience and necessity 2

1. In general

Proposed sewage treatment project complied with buffer zone requirements where all parties acknowledged that distance of proposed sewage lagoons from property owners' home was further than minimum buffer-zone requirement of 300 feet; Public Service Commission relied on ample evidence in record to support claim that proposed location was both cost-effective and environmentally sound. Code, 16-13A-25, 24-2-11, 24-2-11(a). Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305.
Municipal Corporations ⟹ 708

2. Certificate of public convenience and necessity

Public Service district must obtain certificate of public convenience and necessity before it can acquire or construct public service property. Code, 16-13A-25. Sexton v. Public Service Com'n, 1992, 423 S.E.2d 914, 188 W.Va. 305.
Public Utilities ⟹ 113

West's

Annotated Code of West Virginia

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

Chapter 16

2014

Cumulative Annual Pocket Part

Replacing 2013 Pocket Part supplementing 2008 Main Volume

Includes laws through the 2014 Second Extraordinary Session

THOMSON REUTERS

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ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section		Section	
16-13A-3.	District to be a public corporation and political subdivision; powers thereof; public service boards.	16-13A-9.	Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
16-13A-4.	Board; chairman; members' compensation; procedure; district name.	16-13A-18a.	Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
16-13A-7.	Acquisition and operation of district properties.		

§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 storm water services for the city, town or other municipal corporation, and contract for the operation, maintenance, servicing, repair and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town or other municipal corporation included within the district: *Provided*, That no contract shall extend beyond a maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members who shall be persons residing within the district, who possess certain educational, business or work experience which will be conducive to operating a public service district. In the event the public service district is providing any utility service and billing rates and charges to its customers, at least one board member shall be a rate paying residential customer of the public service district: *Provided*, That if an existing public service board does not have a member who is a rate paying residential customer of the public service district on July 1, 2013, the next following appointment to the board shall be a rate paying residential customer of that public service district. For purposes of this section, "rate paying residential customer" means a person who:

(1) In the case of a water or sewer public service district, is physically connected to and actively receiving residential public service district utility services; or

(2) In the case of a storm water public service district, has storm water conveyed away from the residential property by a utility owned system; and

(3) Has an active account in good standing and is the occupier of the residential property which is on the public service district utility service account.

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 Department of Environmental Protection and the Bureau for 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 proceeding. 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 of 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 January 1 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; Acts 2013, c. 163, eff. July 1, 2013.

§ 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 $100 per attendance at regular monthly meetings and $75 per attendance at additional special meetings, total salary not to exceed $2,000 per annum;

(2) For districts with six hundred customers or more but fewer than two thousand customers, up to $125 per attendance at regular monthly meetings and $100 per attendance at additional special meetings, total salary not to exceed $3,250 per annum;

(3) For districts with two thousand customers or more, but fewer than four thousand customers, up to $150 per attendance at regular monthly meetings and $100 per attendance at additional special meetings, total salary not to exceed $4,800 per annum; and

(4) For districts with four thousand or more customers, up to $200 per attendance at regular monthly meetings and $150 per attendance at additional special meetings, total salary not to exceed $6,400 per annum.

The public service district shall certify the number of customers served to the Public Service Commission on July 1 of each fiscal year.

(c) Public service districts selling water to other water utilities for resale or public service districts which provide sewer treatment for other sewer utilities may adopt the following salaries for its board members:

(1) For districts with annual revenues of less than $50,000, up to $100 per attendance at regular monthly meetings and $75 per attendance at additional special meetings, total salary not to exceed $2,000 per annum;

(2) For districts with annual revenues of $50,000 or more, but less than $250,000, up to $125 per attendance at regular monthly meetings and $100 per attendance at special meetings, total salary not to exceed $3,250 per annum.

(3) For districts with annual revenues of $250,000 or more, but less than $500,000, up to $150 per attendance at regular monthly meetings and $100 per attendance at additional special meetings, total salary not to exceed $4,500 per annum; and

(4) For districts with annual revenues of $500,000 or more, up to $200 per attendance at regular monthly meetings and $150 per attendance at additional special meetings, total salary not to exceed $6,400 per annum.

The public service district shall certify the number of customers served and its annual revenue to the Public Service Commission on July 1 of each fiscal year.

(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided by the rules of the board. Notwithstanding any other provision of this code to the contrary, board members are not eligible for salary payment or reimbursement for expenses incurred prior to the public service district initiating service to its first customer. Salary and reimbursement for expenses may be incurred only at meetings occurring after the public service district initiated service to customers.

(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 by that 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 wilful 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 the 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 1987, c. 159, eff. 90 days after April 12, 1987. Acts 2000, c. 199, eff. 90 days after March 11, 2000. Acts 2005, c. 196, eff. 90 days after April 8, 2005. Acts 2013, c. 163, eff. July 1, 2013.

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

The board of these 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 $25,000 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 on 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; Acts 2011, c. 147, eff. June 9, 2011.

§ 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 $50, 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 $50 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 $50. 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 $50 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: *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer or both as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater 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 or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission: *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel, or may require the Division of Health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and buildings where there is gravity flow or transportation by any other methods approved by the Division of Health, including, but not limited to, vacuum and pressure systems approved under the provisions of section nine, article one, chapter sixteen of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings exterior plumbing in order to connect to the main sewer line, the Public Service District Board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation,

operation, maintenance and purchase of a pump or any other method approved by the Division of Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

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

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

(f) All delinquent fees, rates and charges of the district for either water facilities, 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. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the Public Service Districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. 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 of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by section eleven of said article, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall

prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the stormwater utility main office.

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, 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; Acts 2008, c. 202, eff. March 8, 2008; Acts 2010, c. 201, eff. June 11, 2010.

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

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

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

In any case where a public service district owns a water, sewer, stormwater or gas system, and a majority of not less than sixty percent of the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer, stormwater or gas system to any municipality or privately-owned water, sewer, stormwater or gas system, or to any water, sewer, stormwater or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer, stormwater or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: *Provided*, That such sale, leasing or rental may be made only upon: (1) The publication of notice of a hearing before the board of the public service district, as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, in a newspaper published and of general circulation in the county or counties wherein the district is located, such publication to be made not earlier than twenty days and not later than seven days prior to the hearing; (2) approval by the county commission or commissions of the county or counties in which the district operates; and (3) approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer, stormwater or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining, shall be paid to the county commission of the county in which the major portion of such water, sewer, stormwater or gas system is located to be placed in the general funds of such county commission: *Provided*, That no such distribution shall be required in the case of a sale between political subdivisions of the state.

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; Acts 2014, c. 183, eff. June 6, 2014.

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

§ 16-13D-11. Bonds may be secured by trust indenture

United States Code Annotated

Trust Indenture Act of 1939, see 15 U.S.C.A. § 77aaa et seq.

State of West Virginia

Certificate

I, Natalie E. Tennant, 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, AND CHAPTER 31, ARTICLE 15A OF THE 2014 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

May 28, 2015

Natalie E Tennant

Secretary of State

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Section

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31-15A-21. Purchase and cancellation of infrastructure revenue bonds.
31-15A-22. Refunding 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) "Wastewater facility" means all facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding wastewater, 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.

Library References

States ⇐83, 147.
Westlaw Topic No. 360.
C.J.S. States §§ 262, 437, 443 to 445.

§ 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 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 determined to be, essential governmental functions and for a public purpose.

(b) The council shall consist of thirteen members, including:

(1) The Governor or designee;

(2) The Executive Director of the Housing Development Fund or his or her designee;

(3) The Director of the Division of Environmental Protection or his or her designee;

(4) The Director of the Economic Development Authority or his or her designee;

(5) The Director of the Water Development Authority or his or her designee;

(6) The Director of the Division of Health or his or her designee;

(7) The Chairman of the Public Service Commission or his or her designee; and

(8) Six members representing the general public: *Provided,* That there shall be at least one member representing the general public from each congressional district. No more than one member representing the general public may be a resident of the same county.

(c) The Governor shall appoint the public members of the Council who shall serve three-year staggered terms.

(d) 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 advisory members shall be ex officio, nonvoting members of the Council.

(e) The Governor shall appoint the legislative members of the council: *Provided,* That no more than three of the legislative members may be of the same political party.

(f) The Governor shall appoint the representatives of the governing boards from a list of three names submitted by each governing board.

(g) 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. Seven 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.

(h) 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.

(i) 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.

(j) 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.

(k) 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 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; Acts 2009, c. 221, eff. April 10, 2009.

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."

Acts 2009, c. 221, rewrote this section, which formerly read:

"(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 ap-

point 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."

Library References

States ⟹69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250, 252, 262.

§ 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.

Library References

States ⚷69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250, 252, 262.

§ 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.

Library References

States ⇐69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250, 252, 262.

§ 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 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 infrastruc-

ture 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) 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. 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 in 1996.

(c) The council shall study the viability of the consolidation of public service districts throughout the state. The council shall report their findings and conclusions on or before January 16, 1995 to the Governor, Speaker of the House of Delegates and President of the Senate.

Acts 1994, 1st Ex. Sess., c. 26; Acts 2009, c. 221, eff. April 10, 2009.

Historical and Statutory Notes

Acts 2009, c. 221, rewrote this section, which formerly read:

"(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) 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 pre-

vent 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."

Library References

States ⚷69, 74, 83.
Westlaw Topic No. 360.

C.J.S. States §§ 224 to 225, 229, 249 to 250, 252, 262.

§ 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 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.

Library References

Highways ⟹91.
Water Law ⟹1036.
Westlaw Topic Nos. 200, 405.

C.J.S. Highways § 155.
C.J.S. Waters §§ 483, 543 to 581.

§ 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 prefiling requirement is not required. If the project sponsor is a public service district, then the project will be exempted from the approval requirements of section twenty-five, 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.

Library References

Public Utilities ⟹113.
Water Law ⟹1869.
Westlaw Topic Nos. 317A, 405.

C.J.S. Public Utilities §§ 3, 180 to 196.
C.J.S. Waters §§ 483, 498 to 504.

§ 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; West Virginia Infrastructure Lottery Revenue Debt Service Fund; use of funds for projects

(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 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 proceed 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.

(h) There is hereby created in the Water Development Authority a separate, special account which shall be designated and known as the "West Virginia Infrastructure Lottery Revenue Debt Service Fund," into which shall be deposited annually for the fiscal year beginning July 1, 2011, and each fiscal year thereafter, the first $6 million transferred pursuant to section eighteen-d, article twenty-two, chapter twenty-nine of this code and any other funds provided therefor: *Provided,* That such deposits and transfers are not subject to the reservations of funds or requirements for distributions of funds established by sections ten and eleven of this article. Moneys in the West Virginia infrastructure lottery revenue debt service fund shall be used to pay debt service on bonds or notes issued by the Water Development Authority for watershed compliance projects as provided in section seventeen-b of this article, and to the extent not needed to pay debt service, for the design or construction of improvements for watershed compliance projects. Moneys in the West Virginia infrastructure lottery revenue debt service fund not expended at the close of the fiscal year do not lapse or revert to the General Fund but are carried forward to the next fiscal year.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2011, c. 179, eff. June 10, 2011.

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.

Historical and Statutory Notes

Acts 2011, c. 179, in subsec. (d)(2), substituted "proceed" for "proceeds", and made nonsubstantive corrections throughout this section.

Library References

States ⚷127, 128.
Water Law ⚷1900 to 1905.
Westlaw Topic Nos. 360, 405.

C.J.S. States §§ 381 to 382, 386 to 387.
C.J.S. Waters §§ 483, 543 to 581.

§ 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, 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 exceed six tenths of one percent: Provided, That funding assistance made from the proceeds of any general obligation bonds and revenue bonds issued after the fifteenth day of March, one thousand nine hundred ninety-eight, after 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 not be subject to pro rata distribution. When determining median household income of a geographic area of the project to be served, the council shall consider any surveys of the income of the households that will be served by the project.

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

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

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution

or planned distribution of grants and loans under the criteria to be developed pursuant to this article.

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.

Library References

States ⚷127, 128.
Westlaw Topic No. 360.
C.J.S. States §§ 381 to 382, 386 to 387.

§ 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 community and economic development, or its successor".

Library References

States ⚷128.
Westlaw Topic No. 360.
C.J.S. States §§ 381 to 382.

§ 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.

Library References

Water Law ⚷1898.
Westlaw Topic No. 405.
C.J.S. Waters §§ 483, 543 to 581.

§ 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.

Library References

Water Law ⚷1897.
Westlaw Topic No. 405.
C.J.S. Waters §§ 483, 543 to 581.

§ 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.

Library References

Water Law ⚷1861.
Westlaw Topic No. 405.
C.J.S. Waters §§ 483 to 484.

§ 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 students 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."

Library References

States ⇐86, 98.2.
Westlaw Topic No. 360.
C.J.S. States § 261.

§ 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 July 1, 1995, the first $16 million 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 July 1, 1998, the first $24 million 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 that section twenty-a.

(d) On or before May 1 of each year, commencing May 1, 1995, 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; Acts 2008, c. 213, eff. June 7, 2008; Acts 2011, c. 164, eff. April 7, 2011.

Historical and Statutory Notes

Acts 2008, c. 213, added subsec. (e).

Acts 2011, c. 164, deleted subsec. (e), and made nonsubstantive corrections throughout the section. Prior to deletion, subsec. (e) read:

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

Library References

States ⇐127.
Westlaw Topic No. 360.
C.J.S. States §§ 386 to 387.

§ 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 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.

Library References

States ⚷147 to 156.
Westlaw Topic No. 360.
C.J.S. States §§ 437 to 438, 441 to 447, 449 to 453.

§ 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.

Library References

States ⚷127.
Westlaw Topic No. 360.
C.J.S. States §§ 386 to 387.

§ 31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects

(a)(1) The Chesapeake Bay has been identified as an impaired water body due to excessive nutrients entering the Bay from various sources in six states, including wastewater facilities in West Virginia. To restore the Chesapeake Bay, the states have agreed to reduce their respective nutrient contributions to the Chesapeake Bay.

(2) The Greenbrier River Watershed in southeastern West Virginia which encompasses approximately 1,646 square miles, the majority of which lies within Pocahontas, Greenbrier, Monroe and Summers counties, has been identified as an impaired water body due to excessive levels of fecal coliform and phosphorus entering the Watershed from various sources, including wastewater facilities in West Virginia. To restore the Greenbrier River Watershed, the state agrees to reduce the fecal coliform and phosphorus contributions to the Greenbrier River Watershed.

(b) 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 lottery revenue bonds payable from the West Virginia infrastructure lottery revenue debt service fund created by section nine of this article 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.

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per day or more. The proceeds of the bonds shall be used solely to pay costs of issuance, fund a debt service reserve account, capitalize interest, pay for security instruments necessary to market the bonds and to make grants to governmental instrumentalities of the state for the construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. To the extent funds are available in the West Virginia Infrastructure Lottery Revenue Debt Service Fund that are not needed for debt service, the council may direct the Water Development Authority to make grants to project sponsors for the design or construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects.

(d) No later than June 30, 2012, each publicly owned facility with an authorized permitted flow of 400,000 gallons per day or more that is subject to meeting Chesapeake Bay compliance standards or Greenbrier River watershed compliance standards shall submit to the council a ten year projected capital funding plan for Chesapeake Bay watershed compliance projects or Greenbrier River watershed compliance projects, as the case may be, including a general project description, cost estimate and estimated or actual project start date and project completion date, if any. The council shall timely review the submitted capital funding plans and forward approved plans to the Water Development Authority for further processing and implementation pursuant to this article. If the council finds a plan to be incomplete, inadequate or otherwise problematic, it shall return the plan to the applicant with comment on the plan shortcomings. The applicant may then resubmit to council an amended capital funding plan for further consideration pursuant to the terms of this subsection.

(e) Upon approval, each proposed Chesapeake Bay watershed compliance project or Greenbrier River watershed compliance project, or portion of a larger project, which portion is dedicated to compliance with nutrient standards, or fecal coliform and phosphorus standards, established for the protection and restoration of the Chesapeake Bay or the Greenbrier River Watershed, as the case may be, shall be eligible for grant funding by funds generated by the infrastructure lottery revenue bonds described in section (b) of this section. At the request of the applicant, the remaining percentage of project funding not otherwise funded by grant under the provisions of this article may be reviewed as a standard project funding application.

(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River

watershed compliance projects and the proposed grant awards for each eligible project. Grant awards shall be of equal ratio among all applicants of the total cost of each eligible project.

(g) Eligible projects that have obtained project financing prior to December 31, 2011 may apply to the council for funding under the provisions of this section. These applications shall be processed and considered as all other eligible projects, and any grant funding awarded shall, to the extent allowed by law, be dedicated to prepay all or a portion of debt previously incurred by governmental instrumentalities of the state for required Chesapeake Bay nutrient removal projects or Greenbrier River watershed fecal coliform and phosphorus removal projects, subject to the bond covenants and contractual obligations of the borrowing governmental entity. However, any private portion of funding provided by agreement between a political subdivision and one or more private entities, either by direct capital investment or debt service obligation, shall not be eligible for grant funding under the provisions of this article.

Acts 2011, c. 179, eff. June 10, 2011.

Library References

States ⚷147.
Water Law ⚷1873.
Westlaw Topic Nos. 360, 405.

C.J.S. States §§ 437, 443 to 445.
C.J.S. Waters §§ 483, 498 to 504.

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

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

(b) Any trust agreement may pledge or assign the infrastructure revenue debt service fund. Any trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section seventeen 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.

Library References

States ⚷147.
Westlaw Topic No. 360.
C.J.S. States §§ 437, 443 to 445.

§ 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.

Library References

States ⚷164.
Westlaw Topic No. 360.

§ 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.

Library References

States ⚷147.
Westlaw Topic No. 360.
C.J.S. States §§ 437, 443 to 445.

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

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

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

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

Library References

States ⚷153.
Westlaw Topic No. 360.
C.J.S. States §§ 451 to 453.

§ 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.

Library References

States ⚷166.
Westlaw Topic No. 360.
C.J.S. States § 448.

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

Infrastructure revenue bonds issued pursuant to the provisions of this article shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state. The holders or owners thereof shall have no right to have taxes

levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds shall be payable solely from the revenues and funds pledged for their payment as authorized by this article. All such bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment.

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

Library References

States ⚷168.5.
Westlaw Topic No. 360.
C.J.S. States §§ 456 to 466.

§ 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.

Library References

Taxation ⚷2315.
Westlaw Topic No. 371.
C.J.S. Taxation §§ 300 to 309, 324.

West's

Annotated Code of West Virginia

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

Chapter 30
Arts. 27 to End
to
Chapter 31

2014
Cumulative Annual Pocket Part

Replacing 2013 Pocket Part supplementing 2012 Main Volume

Includes laws through the 2014 Second Extraordinary Session

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Revenue Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

(3) After the authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the Cacapon and Beech Fork State Parks Lottery Revenue Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(b) The authority shall expend the bond proceeds, net of issuance costs, reserve funds and refunding costs, for certified capital improvement projects at Cacapon Resort State Park and Beech Fork State Park. The Division of Natural Resources shall submit a proposed list of capital improvement projects to the Governor on or before January 1, 2013. Thereafter, the Governor shall certify to the authority on or before February 1, 2013, a list of those capital improvement projects at Cacapon Resort State Park and Beech Fork State Park that will receive funds from the proceeds of bonds issued pursuant to this section. At any time prior to the issuance of bonds under this section, the Governor may certify to the authority a revised list of capital improvement projects at Cacapon Resort State Park and Beech Fork State Park that will receive funds from the proceeds of bonds issued pursuant to this section. The Governor shall consult with the Division of Natural Resources prior to certifying a revised list of capital improvement projects to the authority.

(c) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be special obligations of the authority, payable solely from the property, revenues or other sources of or available to the authority pledged therefor.

(d) The bonds and the notes shall be authorized by the authority pursuant to this section, and shall be secured, be in such denominations, may bear interest at such rate or rates, taxable or tax-exempt, be in such form, either coupon or registered, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the authority may authorize. The bonds and notes of the authority may be sold by the authority, at public or private sale, at or not less than the price the authority determines. The bonds and notes shall be executed by manual or facsimile signature by the chairman of the board and the official seal of the authority or a facsimile thereof shall be affixed to or printed on each bond and note and attested, manually or by facsimile signature, by the secretary of the board, and any coupons attached to any bond or note shall bear the manual or facsimile signature of the chairman of the board. In case any officer whose signature, or a facsimile of whose signature, appears on any bonds, notes or coupons ceases to be such officer before delivery of such bonds or notes, such signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until such delivery, and, in case the seal of the authority has been changed after a facsimile has been imprinted on such bonds or notes, such facsimile seal will continue to be sufficient for all purposes.

Acts 2012, c. 175, eff. June 7, 2012; Acts 2014, 1st Ex. Sess., c. 6, eff. March 14, 2014.

Historical and Statutory Notes

Acts 2014, 1st Ex. Sess., c. 6, in subsec. (a)(2), "or prior to May 1 of each year, commencing May 1, 2014" substituted "On or prior to May 1 of each year, commencing, upon issuance of the bonds," for "On".

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Section
31-15A-16. Dedication of severance tax proceeds.
31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects.

§ 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 July 1, 1995, the first $16 million 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 July 1, 1998, the first $24 million 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. *Provided, however*, That subject to the conditions, limitations, exclusions and constraints prescribed by subsection (c) of this section, beginning on July 1, 2013, the amount deposited under this subsection to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter shall be the first $23 million of the tax annually collected pursuant to article thirteen-a, chapter eleven of this code.

(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 that section twenty-a.

(d) On or before May 1 of each year, commencing May 1, 1995, 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; Acts 2008, c. 213, eff. June 7, 2008; Acts 2011, c. 164, eff. April 7, 2011; Acts 2013, c. 196, eff. April 12, 2013.

Historical and Statutory Notes

Acts 2013, c. 196, rewrote this section, which formerly read:

"(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 July 1, 1995, the first $16 million 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 July 1, 1998, the first $24 million 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 that section twenty-a.

"(d) On or before May 1 of each year, commencing May 1, 1995, 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."

§ 31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects

(a)(1) The Chesapeake Bay has been identified as an impaired water body due to excessive nutrients entering the bay from various sources in six states, including wastewater facilities in West Virginia. To restore the Chesapeake Bay, the states have agreed to reduce their respective nutrient contributions to the Chesapeake Bay.

(2) The Greenbrier River Watershed in southeastern West Virginia which encompasses approximately 1,646 square miles, the majority of which lies within Pocahontas, Greenbrier, Monroe and Summers counties, has been identified as an impaired water body due to excessive levels of fecal coliform and phosphorus entering the watershed from various sources, including wastewater facilities in West Virginia. To restore the Greenbrier River Watershed, the state agrees to reduce the fecal coliform and phosphorus contributions to the Greenbrier River Watershed.

(b) 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 lottery revenue bonds payable from the West Virginia Infrastructure Lottery Revenue Debt Service Fund created by section nine of this article 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.

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per day or more. The proceeds of the bonds shall be used solely to pay costs of issuance, fund a debt service reserve account, capitalize interest, pay for security instruments necessary to market the bonds and to make grants to governmental instrumentalities of the state for the construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. To the extent funds are available in the West Virginia Infrastructure Lottery Revenue Debt Service Fund that are not needed for debt service, the council may direct the Water Development Authority to make grants to project sponsors for the design or construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects: *Provided*, That the council shall direct the Water Development Authority to provide from moneys in the Lottery Revenue Debt Service Fund not needed to pay debt service in fiscal year 2013 a grant of $6 million to a Chesapeake Bay watershed compliance project which opened bids on December 28, 2011, and further provided that such Chesapeake Bay watershed compliance project shall receive no further grant funding under this section after receipt of the $6 million grant.

(d) No later than June 30, 2012, each publicly owned facility with an authorized permitted flow of four hundred thousand gallons per day or more that is subject to meeting Chesapeake Bay compliance standards or Greenbrier River watershed compliance standards shall submit to the council a ten year projected capital funding plan for Chesapeake Bay watershed compliance projects or Greenbrier River watershed compliance projects, as the case may be, including a general project description, cost estimate and estimated or actual project start date and project completion date, if any. The council shall timely review the submitted capital funding plans and forward approved plans to the Water Development Authority for further processing and implementation pursuant to this article. If the council finds a plan to be incomplete, inadequate or otherwise problematic, it shall return the plan to the applicant with comment on the plan shortcomings. The applicant may then resubmit to council an amended capital funding plan for further consideration pursuant to the terms of this subsection.

(e) Upon approval, each proposed Chesapeake Bay watershed compliance project or Greenbrier River watershed compliance project, or portion of a larger project, which portion is dedicated to compliance with nutrient standards or fecal coliform and phosphorus standards, established for the protection and restoration of the Chesapeake Bay or the Greenbrier River watershed, as the case may be, shall be eligible for grant funding by funds

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generated by the infrastructure lottery revenue bonds described in subsection (b) of this section. At the request of the applicant, the remaining percentage of project funding not otherwise funded by grant under the provisions of this article may be reviewed as a standard project funding application.

(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects and the proposed grant awards for each eligible project. From the proceeds of bonds issued under subsection (b) of this section, the council shall direct the Water Development Authority to make grants to eligible projects ready to proceed to construction and those grant awards shall be pro rated to an equal percentage of total eligible costs among all applicants for each eligible project as certified by the Water Development Authority in its report to the Joint Committee on Government and Finance dated November 26, 2012: *Provided*, That the final project, and its financing, is consistent with the scope of the eligible project included in the council's approval on December 5, 2012.

(g) Eligible projects that have obtained project financing prior to December 31, 2012, may apply to the council for funding under the provisions of this section. These applications shall be processed and considered as all other eligible projects, and a grant funding awarded shall, to the extent allowed by law, be dedicated to prepay all or a portion of debt previously incurred by governmental instrumentalities of the state for required Chesapeake Bay nutrient removal projects or Greenbrier River watershed fecal coliform and phosphorus removal projects, subject to the bond covenants and contractual obligations of the borrowing governmental entity. However, any private portion of funding provided by agreement between a political subdivision and one or more private entities, either by direct capital investment or debt service obligation, shall not be eligible for grant funding under the provisions of this article.

Acts 2011, c. 179, eff. June 10, 2011; Acts 2012, c. 23, eff. March 9, 2012; Acts 2013, c. 206, eff. April 13, 2013; Acts 2014, 1st Ex. Sess., c. 6, eff. March 14, 2014.

Historical and Statutory Notes

Acts 2012, c. 23, in subsec. (g), extended the grant funding application date for Chesapeake Bay watershed compliance projects from December 31, 2011 to December 31, 2012.

Acts 2013, c. 206, rewrote subsec. (f), which formerly read:

"(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects and the proposed grant awards for each eligible project. Grant awards shall be of equal ratio among all applicants of the total cost of each eligible project."

Acts 2014, 1st Ex. Sess., c. 6, in subsec. (f), substituted "November 26, 2012" for "November 28, 2012".

ARTICLE 15C.

BROADBAND DEPLOYMENT

Section	
31-15C-2.	Definitions.
31-15C-3.	Broadband Deployment Council established; members of council; administrative support.
31-15C-4.	Powers and duties of the council generally.
31-15C-8.	Stimulation of demand through public outreach and education.
31-15C-9.	Development of guidelines and application for funding assistance; emergency rule-making authority.
31-15C-10.	Requirements for project funding assistance; review of project application by council; competitive applications.

§31-15C-2. Definitions.

For the purposes of this article:

(1) "Broadband" or "broadband service" means any service providing advanced telecommunications capability with the same downstream data rate and upstream data rate as is

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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 4.35 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 East 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 1.85 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 45.55 square miles (27,570 acres), more or less.

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

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The County Commission further proposes that the Big Creek Public Service District heretofore created by Order of the County Court of Logan County on the 1th 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 A.M., 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.

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 2, 1975, at 10:00 a.m. o'clock there was a public hearing at Room 206, Court House, Logan, West Virginia held in accordance with Chapter 16, Article 13A, Section 2 of the West Virginia Code with the proper notice 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 the 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 conferred 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, that Tributary, 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, southwesterly with the meanders of said Boone-Logan County line 4.25 miles, more or less, to a point in the corner common to Boone-Wyoming and Logan County; thence, southeasterly with the meanders of the Wyoming-Logan County line and with the top of Buffalo Mountain 10.25 miles, more or less, to a point in the 37° - 45' meridian line; thence, due East with said 37° - 45' meridian line 0.25 miles, more or less, to a point in the eastern corporate boundary line of City of Man; thence, due North 1.25 miles, more or less, to a point in the Logan-Triadelphia Magisterial District line; thence meandering with the meanders of said Magisterial line 11.25 miles, more or less, to the place of beginning and containing 43.25 square miles (27,520 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 Sun-Summit-Valley View Public Service District created by Order of the County Court of Logan County, on the 5th day of March, 1973, and the Hayes Public Service District heretofore created by Order of the County Court of Logan County on the 13th day of October, 1972, 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, thereby 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, 1973.

JUDGE

CLERK

RESOLUTION

WHEREAS, on the 5th day of May, 1978, 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.

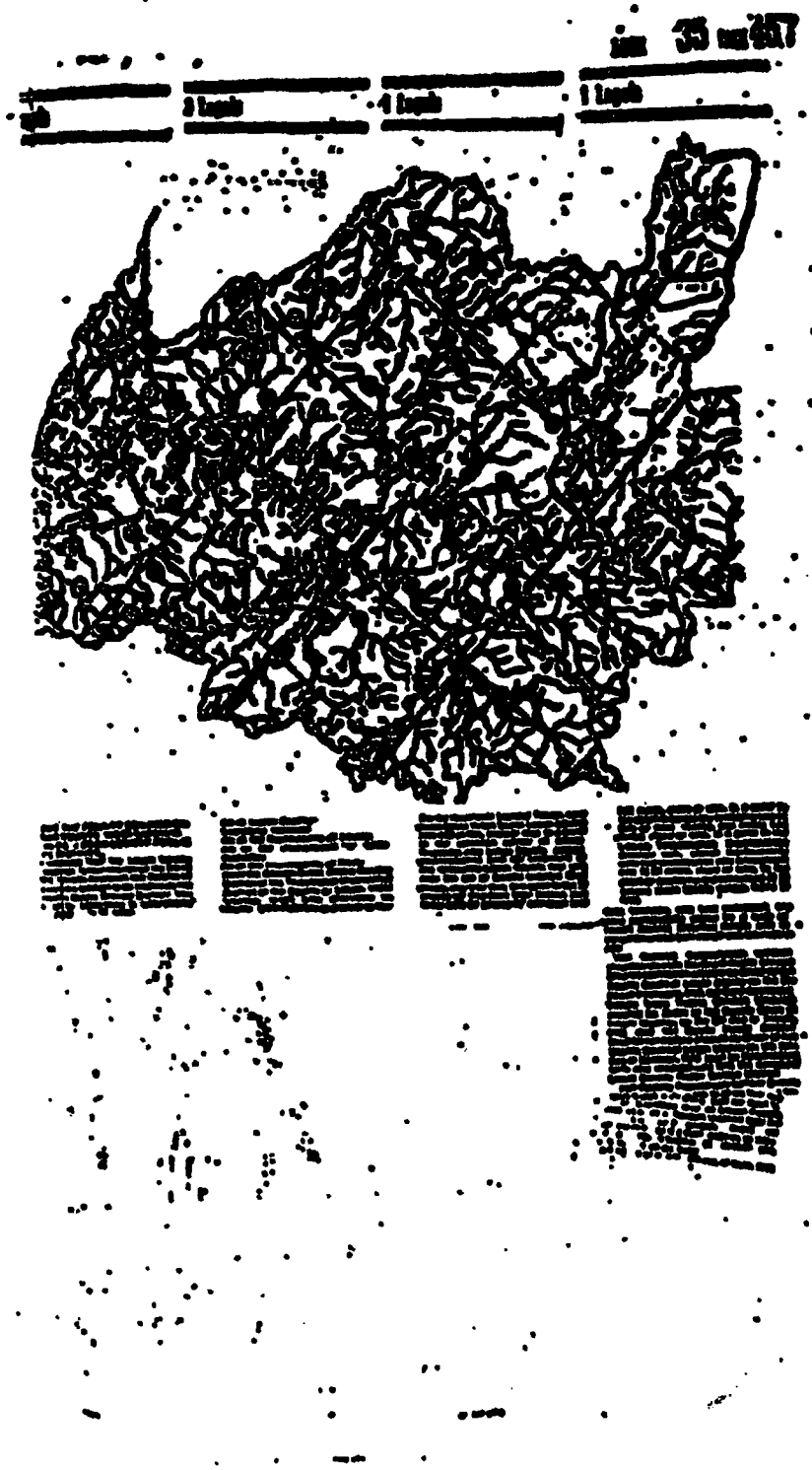
WHEREAS, the municipality of West Logan cannot be included within the boundaries of this proposed public service district without its consent;

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, 1978.

Jerry L. Owens
Mayor



RESOLUTION

WHEREAS, on the 5 day of September, 1973, 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 Randolphs 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 2 day of September, 1973.

[signature], Mayor

Upon motion this meeting is continued and adjourned to the next Regular Session to be held on Friday, September 3, 1973, at 10:00 o'clock A. M.

Recorder

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 Raleigh County lines; thence, following the Wyoming and Raleigh 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 15,500 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 19,400 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 above-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 [illegible] day of [illegible], 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 Virgin determined that the enlargement of Logan County Public Service District to include the Huff Creek area of Wyoming County, West Virginia was feasible and would be conducive to the preservation of public health, comfort and convenience of said area. Therefore, upon proper motion and second the County Commission of Logan County, West Virginia does hereby ORDER the enlargement of and does enlarge the Logan County Public Service District under the provisions of Chapter 16, Article 13A, Section 2 of the West Virginia Code to have all of the powers enumerated in said Chapter and Article. Said public service district shall continue to be known as Logan County Public Service District.

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

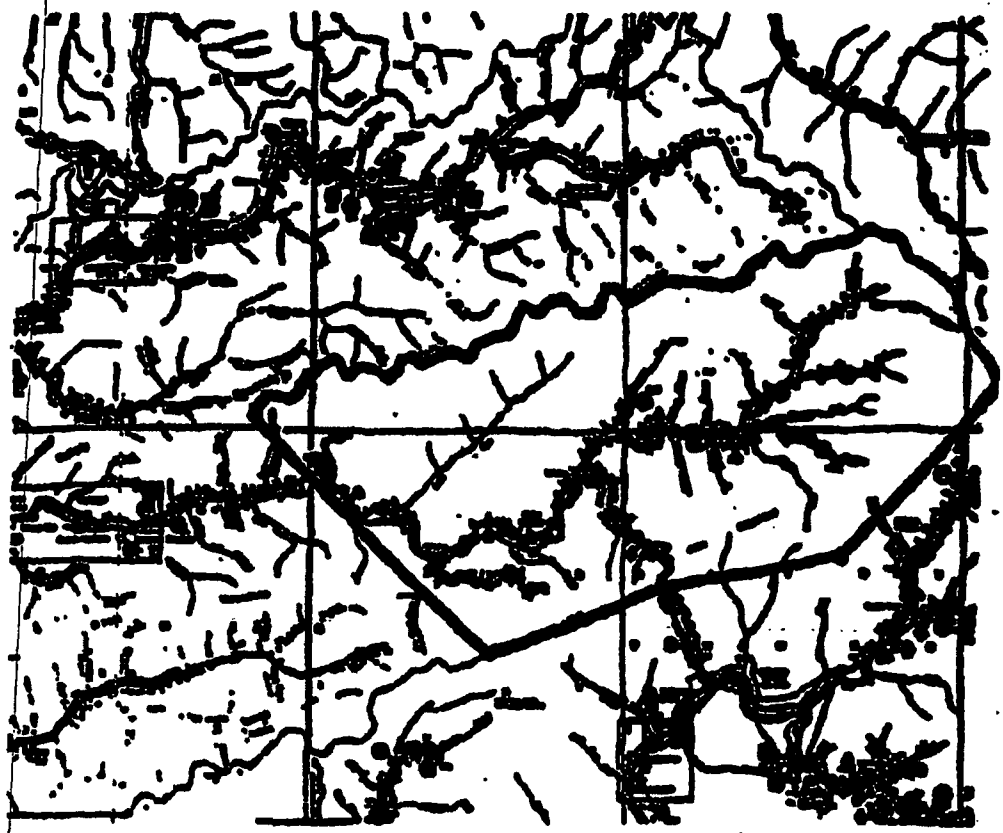
> Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming County line in a northeasterly direction approximately 38,000 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 19,400 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 hereof 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
BY [illegible]

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
10-18-94

Entered: September 28, 1994

CASE NO. 94-0403-PWD-PC

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

RECOMMENDED DECISION

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

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

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

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

107, 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.

Sunye 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 northeasterly direction approximately 16,[illegible] feet, more or less to its intersection with the Logan County line; thence, following said Lincoln and Logan County line in a northeasterly direction approximately 64,450 feet, more or less to its intersection with the Boone County line; thence following said Lincoln and Boone County line in a northeasterly direction approximately 8,570 feet, more or less, to a point located on the eastern extreme of said county line; thence, following said Lincoln and Boone County line in a northwesterly direction approximately 39,[illegible] 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, 750 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 northwesterly direction approximately 23,760 feet, more or less, to a point on West Virginia Route 10 at the top of Fourteen Mile Mountain; thence, following a straight line in a southwesterly direction approximately 13,200 feet, more or less, to a point on the Lincoln and Wayne County line located on said line approximately 5,000 feet north of its intersection with County Route 66; thence, following said Lincoln and Wayne County line in a southeasterly direction approximately 51,750 feet, more or less, to the point of beginning.

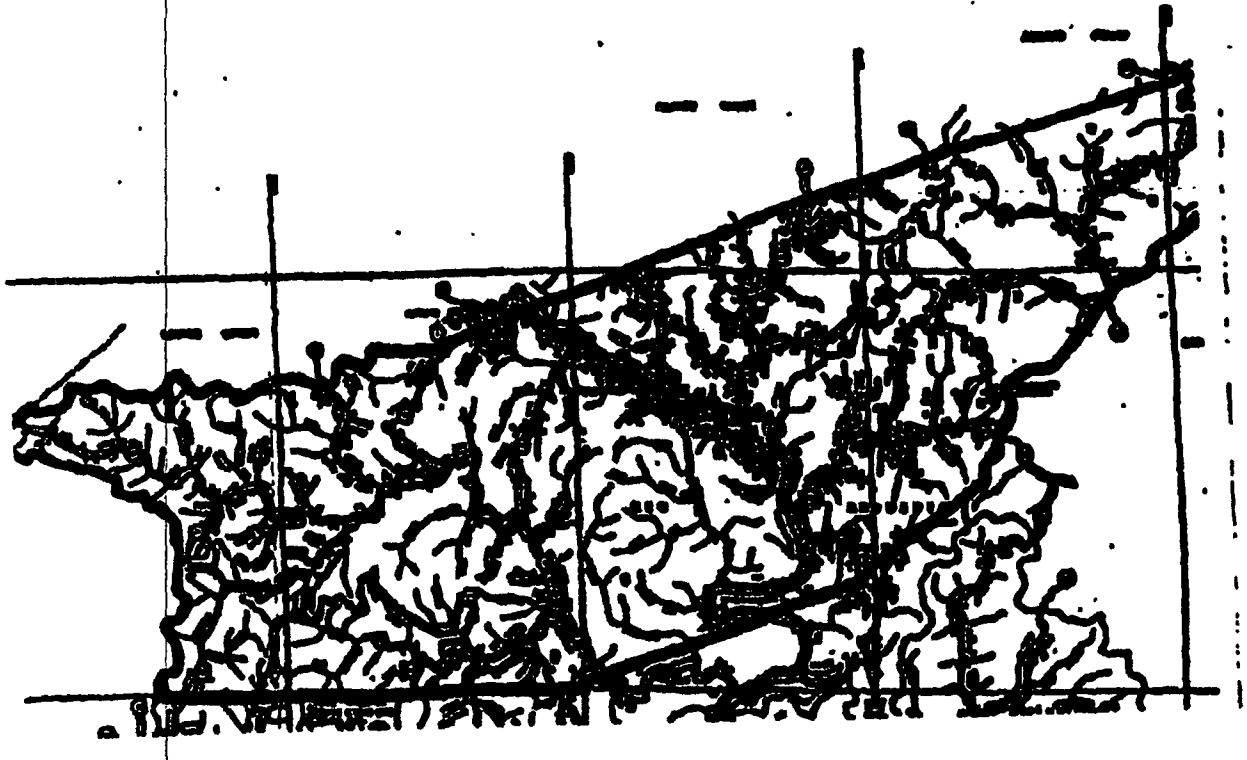
WHEREAS, previously on the 5th day of October, 1994, the County Commission of Lincoln County, West Virginia, adopted an order dissolving the Ranger-Harts Public Service District. THEREFORE, the area of Lincoln County to be included in Logan County Public Service District is not included within the boundaries 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 an 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 northeasterly direction approximately 34, 850 feet, more or less to its intersection with the

Logan County line; thence, following said Lincoln and Logan County line in a northeasterly direction approximately 24,450 feet, more or less, to its intersection with the Boone County line; thence, following said Lincoln and Boone County line in a northeasterly direction approximately 8,970 feet, more or less, to a point located on the eastern extreme of said county line; thence, following said Lincoln and Boone County line in a northeasterly direction approximately 39,400 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 33,700 feet, more or less, to a point having a latitude of N. 38° 05' and a longitude of W. 82° 00'; thence, following a straight line in a southwesterly direction approximately 22,700 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 southeasterly direction approximately 12,300 feet, more or less, to a point on the Lincoln and Wayne County line located on said line approximately 2,000 feet north of its intersection with County Route 65; thence, following said Lincoln and Wayne County line in a southeasterly direction approximately 51,750 feet, more or less, to the point of beginning.

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

ENTERED this 7th day of November, 1984.

Mark S. Sperlock, M.D., PRESIDENT

LOGAN COUNTY COMMISSION

ORIGINAL

ENTERED

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. 94-0889-PWD-PC

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

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

matter and Case No. 94-1068-PWD-PC be consolidated and heard together because of the related issues they involve.

Case No. 94-1068-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 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.

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. 94-0889-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 94-1068-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. 94-0888-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. 94-1088-PWD-PC (Staff No. 2). No protestant appeared at either segment of hearing. (Tr. 3-6).

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. 3-6).

CONCLUSION OF LAW

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

ORDER

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

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

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

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

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

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

Sonya Anderson
Administrative Law Judge

SA:mal

RESOLUTION

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

> Beginning at a point in the Logan County/Mingo County community of Verner at the intersection of the midpoint of the Guyandotte River and the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 14,500 feet, more or less, to a point on top of Verner Mountain, said point having an elevation of 2,426 M.S.L., thence, following a straight line in a south, southwesterly direction approximately 4,000 feet, more or less, to a point on the ridgeline separating the Spice Creek and Leatherwood Creek drainages at its intersection with Mingo County Route 12, thence, following a straight line due west approximately 11,908 feet, more or less, to a point in the center of the Guyandotte River, thence, following the midpoint of the Guyandotte River downstream in a northerly direction approximately 7,200 feet, more or less, to a point in the center of the Guyandotte River located approximately 2,500 feet, more or less, upstream of the confluence of Sylvia Branch and the Guyandotte River, thence, following a straight line in a west, northwesterly direction approximately 5,940 feet, more or less, to a point atop a mountain peak having an elevation of 1,850 feet M.S.L., thence, following a straight line due north approximately 3,340 feet, more or less, to the point of intersection of said line with the Logan and Mingo County line, thence, following the meanderings of said Logan and Mingo County line in a easterly direction approximately 15,000 feet, more or less, to the point of beginning.

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

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

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

Dated this 1st day of October, 1997.

MINGO COUNTY COMMISSION

Mr. Larry Cline, President

Mr. Curtis Fletcher, Commissioner

Mr. Jim Hatfield, Commissioner

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, W Virginia, upon its own motion entered an order proposing enlargement of Logan County Public Service District into the Ver and Spice Creek areas of Mingo County, West Virginia; and,

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

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

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

follows:

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

The enlargement of Logan County Public Service District as 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:dlb

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 term of **MIKE STONE** expires on the **LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD** in October of 2013 does, upon motion duly made, seconded and passed, reappoint Mr. Stone to a new term of six (6) years on the said Logan County PSD Board, said term to expire in October of 2019.

ENTERED this the 7th day of October, 2013.

DANNY R. GODBY, President

DANNY ELLIS, 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 term of LEONARD HOVIS has expired on the LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD does, upon motion duly made, seconded and passed, reappoint Mr. Hovis to a new term of six (6) years on the said Logan County PSD Board, said term to expire in January of 2020.

ENTERED this the 4thday of March, 2014.

DANNY R. GODBY, President

DANNY ELLIS, 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 term of BEN LOWE, JR., has expired on the LOGAN COUNTY PUBLIC SERVICE DISTRICT BOARD does, upon motion duly made, seconded and passed, reappoint Mr. Lowe to a new term of six (6) years on the said Logan County PSD Board, said term to expire in January of 2020.

ENTERED this the 4th day of March, 2014.

DANNY R. GODBY, President

DANNY ELLIS, Commissioner

WILLIE D. AKERS, JR., Commissioner

OATH OF OFFICE

STATE OF WEST VIRGINIA

COUNTY OF LOGAN

I, LEONARD HOVIS, DO SOLEMNLY SWEAR TO SUPPORT THE CONSTITUTION OF THE UNITED STATES AND THE STATE OF WEST VIRGINIA, AND TO FAITHFULLY DISCHARGE THE DUTIES AS A BOARD MEMBER OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT OF LOGAN COUNTY, WEST VIRGINIA, TO THE BEST OF MY ABILITY AND JUDGMENT, SO HELP ME GOD.

Leonard Hovis

LEONARD HOVIS

SUBSCRIBED AND SWORN TO BEFORE ME THIS THE 19th DAY OF January, 2011.

Barbara A. Belcher

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA A. BELCHER
[illegible]
[illegible] 23631
My commission expires March 19, 2018

OFFICER'S OATH

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

I, Ben F. Lowe, Jr., having been duly appointed to the office of Board Member of the Logan County Public Service District do solemnly swear that I will support the Constitution of the United States and the Constitution of this State, and that I will truly and faithfully discharge all the duties of said office, during my continuance therein, to the best of my skill and judgement, so help me, God.

Ben F. Lowe, Jr.

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

Glen D. Adkins, Clerk

By: Gudrun Bykhouse

OFFICER'S OATH

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

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

Mike Stone

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

Glen D. Adkins, Clerk
By: Barbara Belcher

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 as 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 coming year. In addition, a copy of the agenda for each regularly scheduled meeting shall also be posted at the same location by the Secretary not less than 72 hours before such regular meeting is to be held.

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

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

A notice shall be considered distributed to a news medium when it has been addressed to such news medium at the address listed above, or at such other address as the news medium has in writing requested be used, mailed 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 unduly interference with the meeting. The Board shall allow the equipment to be placed within the meeting room in such a way as to permit its intended use, and the ordinary use of the equipment may not be declared to constitute undue interference; provided, that if the Board, in good faith, determines that the size of the meeting room is such that all the members of the public present and the equipment and personnel necessary for broadcasting, photographing, filming and tape-recording the meeting cannot be accommodated in the meeting room without unduly interfering with the meeting and an adequate alternative meeting room is not readily available, then the Board, acting in good faith and consistent with the purposes of this rule, may require the pooling of the equipment and the personnel operating it.

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

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

ARTICLE V

OFFICERS

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

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

ARTICLE VI

DUTIES OF OFFICERS

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

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

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. Duplicate records shall be filed with the County Commission and shall include the minutes of all Board meetings. He/She shall, together with the Chairperson, sign the minutes of the meetings at which he/she is present. The Secretary shall have charge of the minute book, be the custodian of records 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 purpose 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

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:
Ben F. Lowe, Jr., Chair
Mike Stone
Leonard Hovis
GENERAL MANAGER:
William Baisden, CPA

MINUTES

January 6, 2015

Respectfully submitted,

Ben F. Lowe Jr.

Mr. Ben F. Lowe, Jr., Chair

Mr. Mike Stone, Secretary

Leonard Hovis

Mr. Leonard Hovis, Treasurer

The Logan County Public Service District held its Special Monthly Board Meeting on Tuesday, January 6, 2015 at 6:30 p.m. at the Logan County Public Service District Business Office, 41 Armory Road, Monaville, West Virginia.

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

Mr. Lowe noted the absence of Mike Stone, Secretary for the Logan County Public Service District.

APPROVAL OF MINUTES: The Board reviewed the Minutes of the December 16, 2014 Regular Board Meeting. A motion was made by Mr. Hovis to approve the minutes as presented, seconded by Mr. Lowe. Motion passed 2-0.

ELECTION OF OFFICERS - Being the first District Board Meeting of the new year, the election of the officers was discussed. A motion was made by Mr. Hovis that the District Board Officers remain the same as last year, seconded by Mr. Lowe. Motion passed 2-0. The District Officers for 2015 are:

Mr. Ben F. Lowe, Jr., Chair
Mr. Leonard Hovis, Treasurer
Mr. Mike Stone, Secretary

CUSTOMER/PUBLIC PRESENTATIONS: None.

ANNOUNCEMENTS: The next Regular Board Meeting is scheduled for Tuesday, January 20, 2015, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

The next Special Board Meeting is scheduled for Tuesday, February 3, 2015, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

PROJECT IMPLEMENTATION:

Frances Creek Water Project – Mr. Baisden reported that the Public Service Commission has made the final decision and Rick Roberts is preparing the request for authorization to bid this project.

Anchor Road Water Project – Mr. Baisden stated that there are no new updates on this project.

Marsh Fork Water Project – Mr. Baisden reported that there has been a slip at the tank site on this project. Mr. Baisden stated that Mr. Roberts has been looking into it.

Big Harts Creek Water Project – Mr. Baisden reported there are no new updates on this project.

Phase III A Sewer Project – Mr. Baisden reported that they are working on the change order work around the 5 and 6 Holden area. Mr. Baisden stated that they are not making good progress.

A discussion was held on the 84 Lumber property.

Phase III B-1 Sewer Project – Mr. Baisden stated that there were no new updates on this project.

Frye Drive Water Project – Mr. Baisden reported that the contractors started on this project yesterday.

Hidden Valley/Airport Road Water Project – Mr. Baisden reported that the Public Service Commission has made the final decision and Rick Roberts is preparing request for authorization to bid this project.

Big Harts Creek Phase II Water Project – Mr. Baisden reported that the District is waiting for the Small Cities Block Grant to be announced.

Other Projects – A discussion was held on the Workman Fork portion of the Marsh Fork Water Project.

A discussion was held on the waterline relocation at the new Thornhill Ford dealership.

SYSTEM OPERATIONS: Mr. Baisden presented a Memorandum approving the payment of monthly invoices in the amount $99,595.28 to the Board for review, approval and signature. A motion was made by Mr. Hovis to approve the invoices as presented, seconded by Mr. Lowe. Motion passed 2-0.

Eastern Wyoming Water Systems – Mr. Baisden reported that the next board meeting that is scheduled for Tuesday, January 13, 2015 at 6:30 p.m. at the Stephenson Water Treatment Plant.

In regards to the Barkers Ridge Water Project, Mr. Baisden reported that the Pre-bid Conference has been scheduled for January 14, 2015 at 10:00 a.m. and the Bid Opening has been scheduled for January 28, 2015.

Other – A discussion was held on the Brenda Stanley PSC complaint. Mr. Baisden stated that a PSC hearing has been scheduled for January 13, 2015 at 1:00 p.m. on this complaint.

A discussion was held on the water quality issue at Upper Mud Fork. Mr. Baisden stated that the City of Logan was to have to have tank inspected sometime this week.

EXECUTIVE SESSION: None.

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT
January 6, 2015 Board Meeting
Attendance List

Name	Representing
Melinda Coulliett	LCPSD
William Baisden	LCPSD
Vicki White-Parsley	our selfs
Jack Parsley	our selfs
Leonard Hours	LCPSD
Ben F. Fowler	LCPSD

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Issued: December 1, 2014

FINAL
12/21/2014

CASE NO. 14-1434-PWD-CN

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
Application for a certificate of convenience and necessity to construct improvements to its water system, near Frances Creek, Kiah Creek and surrounding areas in Logan County.

RECOMMENDED DECISION

The application is granted, and the project, its funding, and the Staff-recommended post-construction rates are approved.

PARTIAL CASE HISTORY

On August 11, 2014, Logan County Public Service District (District), by counsel Mark E. Kauffelt, filed with the Public Service Commission (Commission) an application for a certificate of convenience and necessity to construct improvements to its water system near Frances Creek, Kiah Creek and surrounding area in Logan County. The District also requested approval of post-construction rates that would provide an increase of approximately $735,154 in additional revenue, a 15.3% increase. Supporting documents were attached.

Also on August 11, 2014, the Commission directed the District to publish a Notice of Filing (Notice), which provided that, if substantial protest was not filed within thirty days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application. The District was also ordered to provide individual notice of its requested rate increase to its customers.

On August 19, 2014, by Order, the Commission referred this matter to the Division of Administrative Law Judges for decision no later than January 23, 2015, if substantial protest was filed, or December 26, 2014, if not.

On September 26, 2014, the District, by counsel, filed a certificate that included that it had mailed the Notice to its only resale customer, the Chapmanville Water Department, by certified mail on August 8, 2014, and had mailed the Notice to its non-resale customers on September 8, 2014. Also filed were affidavits establishing publication of the Notice on August 27, 2014, in The Lincoln Journal and The Lincoln News Sentinel; The Williamson Daily News, published in Mingo County; the Logan Banner; the Independent Herald, published in Wyoming County; and the Coal Valley News, published in Boone County.

On November 5, 2014, Staff Attorney Chris Howard filed the Final Joint Staff Memorandum, with an attached memorandum from Mansour Mashayekhi, of the Engineering Division, and Karen L. Buckley, of the Utilities Division, which included the following: The project will extend water service to approximately 84 potential residential and small commercial customers in the Lincoln County communities of Frances Creek, Kiah Creek and surrounding area. The potential customers are presently served by wells that provide insufficient quantity and quality of water. It has been approved by the West Virginia Infrastructure and Jobs Development Council (WVIJDC). The total estimated project cost is $2,830,000, including an estimated construction cost of $2,288,000; the costs are reasonable. Most permits have been received, including Permit No. 19,429, issued on May 16, 2014, by the West Virginia Office of Environmental Health Services. The project will be funded by a $50,000 Lincoln County Commission grant, a $1,500,000 Small Cities Block Grant, a $747,000 Rural Utilities Service (RUS) grant, and a $533,000 RUS loan, payable over 38 years at an annual interest rate of 2.125%. Staff recommended that the project and its funding be approved. The proposed rates would generate $266,717 in total surplus, but in Case No. 13-1657-PWD-CN it was determined that the District only needed a surplus of $143,161 for capital additions. Staff recommended post-construction rates that would provide $162,245 in additional revenue, a 3.1% increase, which would provide an annual surplus of $170,640 and a debt service coverage factor of 115.18%. Those post-construction rates are contained in a Staff-recommended tariff labeled Step 1, which will come into effect at the completion of this project if it is completed before the project at issue in Case No. 14-1425-PWD-CN is completed. Because the projects at issue in this matter and in Case No. 14-1425-PWD will be constructed concurrently, Staff developed Step 2 rates, which will preempt the Step 1 rates if the two projects are completed at the same time or the Case No. 14-1425-PWD-CN project is completed before this project is completed; if the Case No. 14-1425-PWD-CN project is completed after this project is completed, the Step 2 rates will come into effect upon completion of the Case No. 14-1425-PWD-CN project. The Step 2 rates will provide $193,183 in additional revenue, a 3.7% increase, which will provide a surplus of $174,347 and 115.29% debt service coverage.

On November 13, 2014, the undersigned issued a Procedural Order that required the District to file any objection to the Staff-recommended rates no later than November 24, 2014.

On November 24, 2014, the District, by counsel, filed a letter stating that it did not object to the Staff-recommended rates.

FINDINGS OF FACT

1. On August 11, 2014, Logan County Public Service District (District), by counsel Mark E. Kauffelt, filed with the Public Service Commission (Commission) an application for a certificate of convenience and necessity to construct improvements to its water system near Frances Creek, Kiah Creek and surrounding area in Logan County. The District also requested approval of increased post-construction rates that would provide an increase of approximately $735,154 in additional revenue, a 15.3% increase. Supporting documents were attached. (See application).

2. The District published a Notice of Filing on August 27, 2014, in The Lincoln Journal and The Lincoln News Sentinel; The Williamson Daily News, published in Mingo County; the Logan Banner; the Independent Herald, published in Wyoming County; and the Coal Valley News, published in Boone County. It also sent a copy of the Notice of Filing to its only resale customer, the Chapmanville Water Department, by certified mail, and to each of its non-resale customers. (See filings of September 26, 2014).

3. The project will extend water service to approximately 84 potential residential and small commercial customers in the Lincoln County communities of Frances Creek, Kiah Creek and surrounding area. The potential customers are presently served by wells that provide insufficient quantity and quality of water. The project is needed. (See application; memorandum filed November 10, 2014)

4. The project has been approved by the West Virginia Infrastructure and Jobs Development Council. (See application; memorandum).

5. The total estimated project cost is $2,830,000, including an estimated construction cost of $2,288,000; the costs are reasonable. (See application; memorandum).

6. Most permits have been received, including Permit No. 19,429, issued on May 16, 2014, by the West Virginia Office of Environmental Health Services. (See application; memorandum).

7. The project will be funded by a $50,000 Lincoln County Commission grant, a $1,500,000 Small Cities Block Grant, a $747,000 Rural Utilities Service grant, and a $533,000 RUS loan, payable over 38 years at an annual interest rate of 2.125%. (See application; memorandum).

8. Staff recommended that the project and its funding be approved. The proposed rates would generate $266,717 in total surplus, but in Case No. 13-1657-PWD-CN it was determined that the District only needed a surplus of $143,161 for capital additions. Staff recommended post-construction rates that would provide $162,245 in additional revenue, a 3.1% increase, which would provide an annual surplus of $170,640 and a debt service coverage factor of 115.18%. Those post-construction rates are contained in a Staff-recommended tariff labeled Step 1, as provided in Appendix A hereto, which will come into effect at the completion of this project if it is

completed before the project at issue in Case No. 14-1425-PWD-CN is completed. (See memorandum).

9. Because the projects at issue in this matter and in Case No. 14-1425-PWD will be constructed concurrently, Staff developed Step 2 rates, as provided in Appendix B, which will become effective at the completion of the project, preempting the Step 1 rates, if the two projects are completed at the same time or the Case No. 14-1425-PWD-CN project is completed before this project is completed. The Step 2 rates will provide $193,183 in additional revenue, a 3.7% increase, which will provide a surplus of $174,347 and 115.29% debt service coverage. (See memorandum).

10. The District did not object to the Staff-recommended rates. (See filing of November 24, 2014).

CONCLUSIONS OF LAW

1. It is appropriate to grant the application, pursuant to W.Va. Code §24-2-11, and to approve the project, because the public convenience and necessity require it; its costs are reasonable; and substantial protest was not filed.

2. It is appropriate to approve the funding, as stated in Finding of Fact 7.

3. It is appropriate to approve the Staff-recommended post-construction rates, as provided at Appendix A and Appendix B, because they are necessary to provide revenue sufficient, but not more than sufficient, to cover the District's reasonable and necessary operating expenses and debt service, and to provide a reasonable cash surplus for capital additions.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed August 11, 2014, by Logan County Public Service District to construct improvements to its existing water system near Frances Creek, Kiah Creek and surrounding area in Logan County, is granted and the project is approved.

IT IS FURTHER ORDERED that the funding for the project, consisting of $50,000 Lincoln County Commission grant, a $1,500,000 Small Cities Block Grant, a $747,000 Rural Utilities Service grant, and a $533,000 RUS loan, payable over 38 years at an annual interest rate of 2.125%, is approved.

IT IS FURTHER ORDERED that, if there is any change in the plans and/or scope of the project or if a change in project cost or financing affects rates, Logan County Public Service District obtain Commission approval prior to commencing construction.

IT IS FURTHER ORDERED that Logan County Public Service District not proceed to construction unless it has received all federal, state and local permits.

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

IT IS FURTHER ORDERED that Logan County Public Service District file a copy of the engineer's certified tabulation of bids for the project within ten (10) days of the opening date.

IT IS FURTHER ORDERED that Logan County Public Service District submit a certificate of substantial completion of the project from its engineer as soon as it becomes available.

IT IS FURTHER ORDERED that the rates and charges, as provided in Appendix A attached hereto, are approved, to become effective upon substantial completion of the project if the project is completed before completion of the project at issue in Case No. 14-1425-PWD-CN.

IT IS FURTHER ORDERED that the rates and charges, as provided in Appendix B attached hereto, are approved, to become effective upon completion of the project if the project is completed simultaneously or after completion of the project at issue in Case No. 14-1425-PWD-CN.

IT IS FURTHER ORDERED that Logan County Public Service District file an original and at least five (5) copies of its tariff containing the rates and charges, as provided in Appendix A, within thirty (30) days of substantial completion of the project, if the project is completed before completion of the project at issue in Case No. 14-1425-PWD-CN.

IT IS FURTHER ORDERED that Logan County Public Service District file an original and at least five (5) copies of its tariff containing the rates and charges, as provided in Appendix B, within thirty (30) days of substantial completion of the project, if the project is completed simultaneously or after completion of the project at issue in Case No. 14-1425-PWD-CN.

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

The Executive Secretary of the Commission is ordered to serve a copy of this order upon the Commission by hand delivery; by electronic service upon all parties of record who have filed an e-service agreement with the Commission; and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary within fifteen (15) days of the date of this order. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served the 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 fifteen-day time period, unless it is ordered stayed 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 Executive Secretary. No such waiver will be effective until approved by order of the Commission.

Sunya Anderson
Administrative Law Judge

SA:s
141434aa.docx

LOGAN COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 14-1434-PWD-CN

APPROVED TARIFF-STEP 1

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

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

RATES (Customers with metered water supply)

First	2,000 gallons used per month	$9.59 per 1,000 gallons
Next	58,000 gallons used per month	$9.18 per 1,000 gallons
Next	240,000 gallons used per month	$6.77 per 1,000 gallons
All Over	300,000 gallons used per month	$3.54 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following based on meter size:

5/8	inch meter	$ 19.18	per month
3/4	inch meter	$ 28.77	per month
1	inch meter	$ 47.95	per month
1-1/4	inch meter	$ 70.01	per month
1-1/2	inch meter	$ 95.90	per month
2	inch meter	$ 153.44	per month
3	inch meter	$ 306.88	per month
4	inch meter	$ 479.50	per month
6	inch meter	$ 959.00	per month
8	inch meter	$1,534.40	per month

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

Equivalent to 4,500 gallons of water usage - $42.13 per month

SALES FOR RESALE

All water for resale to the Town of Chapmanville will be billed in accordance to the approved rate of $1.70 per 1,000 gallons per month

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever 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. The pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to their system.

RECONNECTION

$20.00

To be charged when the supply of water is turned off for violations 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 water utility up to 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

$0.74 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of the applicant's specific customer class or fifty dollars ($50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

LOGAN COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 14-1434-PWD-CN

APPROVED TARIFF-STEP 2

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

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

RATES (Customers with metered water supply)

First	2,000 gallons used per month	$9.64 per 1,000 gallons
Next	58,000 gallons used per month	$9.24 per 1,000 gallons
Next	240,000 gallons used per month	$6.81 per 1,000 gallons
All Over	300,000 gallons used per month	$3.56 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following based on meter size:

5/8	inch meter	$ 19.28	per month
3/4	inch meter	$ 28.92	per month
1	inch meter	$ 48.20	per month
1-1/4	inch meter	$ 70.37	per month
1-1/2	inch meter	$ 96.40	per month
2	inch meter	$ 154.24	per month
3	inch meter	$ 308.48	per month
4	inch meter	$ 482.00	per month
6	inch meter	$ 964.00	per month
8	inch meter	$1,542.40	per month

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

Equivalent to 4,500 gallons of water usage - $42.38 per month

SALES FOR RESALE

All water for resale to the Town of Chapmanville will be billed in accordance to the approved rate of $1.71 per 1,000 gallons per month

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever 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. The pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to their system.

RECONNECTION

$20.00

To be charged when the supply of water is turned off for violations 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 water utility up to 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

$0.74 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of the applicant's specific customer class or fifty dollars ($50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

USDA
United States Department of Agriculture

Rural Development

West Virginia State Office

1550 Earl Core Road, Suite 101
Morgantown, WV 26505

Voice 304.284.4860
1.800.295.8228
Fax 304.284.4893

April 15, 2013

Ben F. Lowe, Jr., Chairman
Logan County Public Service District
P.O. Box 506
Logan, WV 25601

RE: Frances Creek Waterline Extension

Dear Mr. Lowe:

This letter, with Attachments 1 through 11 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered by USDA, Rural Development (RD). Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RD loan in the amount of $533,000, an RD grant in the amount of $747,000, and other funding in the amount of $1,550,000, for a total project cost of $2,830,000. The other funding is planned in the form of grants from the Small Cities Block Grant program and the Lincoln County Commission.

The loan and grant will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan/grant approval or the time of loan/grant closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel, and accountant. All parties may access our website located at www.rurdev.usda.gov/UWEP_HomePage.html for the following:

1. RUS Instruction 1780
2. RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance"
3. RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"
4. RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits."

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

If you do not have internet access, we will provide the appropriate documents.

The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

Attachment No. 1 – Project Construction Budget (All Copies)
Attachment No. 2 – Water and Waste Processing Checklist (All Copies)
Attachment No. 3 – Water Users Agreement (Applicant and Attorney Copies)
Attachment No. 4 – Declination Statement (Applicant and Attorney Copies)
Attachment No. 5 – Form RD 1927-9, "Preliminary Title Opinion" (Attorney Copy)
Attachment No. 6 – Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way" (Attorney Copy)
Attachment No. 7 – Form RD 1927-10, "Final Title Opinion" (Attorney Copy)
Attachment No. 8 – Guidance to Local Attorney (Applicant and Attorney Copies)
Attachment No. 9 – Sample Credit Agreement (Applicant Copy)
Attachment No. 10 – WV Supplemental General Conditions (Engineer Copy)
Attachment No. 11 – Various other RD forms as identified on Attachment No. 2

The conditions referred to above are as follows:

1. Fund Usage – Funds obligated under the terms of this letter of conditions are committed on the basis that your project will proceed to the construction stage in an expedient manner. In accordance with RUS Staff Instruction 1782-1, Section 1782.20(u)(5), any funds not disbursed within 60 months from the date of obligation will be de-obligated and returned to the Department of Treasury for further disposition to other project applicants. In the event that USDA determines that your project has not progressed within the five (5) year timeline and that funds will be recaptured, you will be given appeal rights and due process to document reasons why you believe the decision to de-obligate your project funds is not justified.

2. System for Award Management – System for Award Management (SAM) is a Federal Government database that has combined federal procurement systems and the Catalog of Federal Domestic Assistance into one system. The initiation of SAM includes the functionality of (1) Central Contractor Registry (CCR), (2) Federal Agency Registration (Fedreg), (3) Online Representations and Certifications Application, and (4) Excluded Parties List System (EPLS). The benefits of SAM include streamlined and integrated processes, elimination of data redundancies, and reduced costs while providing improved capability. Registering with SAM is required for all recipients of Federal loans and grants. Registration expires every 12 months and must be renewed. Detailed instructions on registration and renewal are available at www.sam.gov or can be provided by our agency.

3. Loan Repayment – The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a

2.125% interest rate and a monthly amortization factor of .00320, which provides for a monthly payment of $1,706. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your District must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan. You will be required to establish this debt service reserve account with the West Virginia Municipal Bond Commission. We also recommend that, as part of this financing, you move any existing debt service reserve accounts to the Municipal Bond Commission as well. Your bond counsel will be able to assist you with this.

You are reminded that the District may be required to refinance (graduate) the unpaid balance of its RD loan, in whole or in part, upon the request of RD if at any time it shall be determined the District is able to obtain a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time.

4. Security – The loan must be secured by a statutory lien of shared first priority, a pledge of the system's revenues and other agreements between you and RD as set forth in the bond resolution which must be properly adopted and executed by the appropriate officials of your District. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.

5. Users – This conditional commitment is based upon you providing evidence that you will have at least 10,189 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of 67 signed user agreements and a signed certification from you that identifies and attests to the number of users actually connected to and using the District's existing water system, which is to be expanded by the new project, at the time you request authorization to advertise the proposed project for construction bids.

The enclosed Water Users Agreement will be used. Each user signing an agreement must make a user contribution of $100.00. Each potential user who is located along planned lines and declines the offered service will be provided an opportunity to sign a "Service Declination Statement." A guide "Service Declination Statement" is attached for your use. If a potential user refuses to sign either a user agreement or a declination statement, the individual making the contact for the District should complete the declination statement for that potential user and note thereon his/her visit with the potential user, the potential user's refusal to sign, and the reason therefore. The declination statement should also be dated and signed by the individual making the contact.

Before RD can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and that all potential users have been offered the proposed service. Information and material evidencing compliance with this requirement must consist of (1) your certification (written) as to the number of users connected to and using the water service of the existing system (paying monthly bills), (2) signed user agreements, (3) signed service declination statements, (4) records evidencing user contributions having been paid, (5) a map locating each potential user's property in the new service area identifying it by number, (6) a list of all signed bona fide users numbered so as to be a cross-reference with the map, and (7) a list of all declination statements numbered so as to be a cross-reference with the map.

The RD loan and grant commitment is based on the District providing service to one large volume user. Evidence must be provided to show that user will actually be connected to the system when it is completed and that the monthly water usage projected by the engineer is reasonable. In the event that user refuses the offered service, the District must obtain enough additional revenue (i.e., increase in user rates, sign up of an adequate number of other users, reduction in project scope to reduce debt service and O&M, etc.) to make up the projected income that would be lost by not having that user on the system.

Before RD can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users have been acquired and are currently using the system.

6. Bond Counsel Services -- The services of a recognized bond counsel are required. The bond counsel will prepare the form of resolution to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.

7. Engineering Services – It will be necessary for you to obtain the services of an engineer. EJCDC No. E-500, "Agreement between Owner and Engineer for Professional Services" (2008 Edition) should be utilized (3 Copies). The EJCDC document is issued under copyright and cannot be provided by RD.

8. Legal Services – It will be necessary for you to obtain the services of a local attorney. For your convenience "RUS Legal Services Agreement" is enclosed for your use.

9. Accounting Services – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:

    a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit.)

b. Prior to loan and grant closing, your accountant must certify that the accounts and records as required by your bond resolution have been established and are operational.

The Accountant's Agreement should be submitted to RD for review. Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RD concurrence is obtained.

Agency regulations outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on the District. "Government Auditing Standards" (Revised July 2007), which may be accessed at www.gao.gov/govaud/ybk01.htm, and RUS Bulletins 1780-30 and 1780-31, which may be accessed at our agency website, www.rurdev.usda.gov/UWEP_HomePage.html, outline audit requirements.

You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends $500,000 or more in Federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

10. Facility Control – Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:

a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.

b. A copy of deeds, contracts, or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the District already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.

c. A narrative opinion from your attorney concerning all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.

e. On the day of loan closing, the District's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the District has already acquired real property(s) (land or facilities), the District's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.

11. Permits – Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:

    a. West Virginia Department of Highways
    b. Railroads
    c. State Department of Health
    d. Department of Environmental Protection
    e. Corps of Engineers
    f. Public Land Corporation

12. Public Service Commission Approvals – You must obtain the following from the West Virginia Public Service Commission:

    a. A Certificate of Convenience and Necessity.

    b. Approval of user charges that are acceptable to you and RD.

    c. Approval of financing for the project's proposed financing arrangements.

The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1. A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.

13. Insurance and Bonding Requirements – Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

    a. General Liability Insurance – This should include vehicular coverage.

    b. Workers' Compensation – In accordance with appropriate State laws.

    c. Position Fidelity Bond(s) – All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to the estimated highest monthly construction drawdown. Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

       The minimum coverage acceptable to RD once your project is in operation will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

    d. National Flood Insurance – In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:

       i. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.

ii. Applicants whose buildings, machinery, or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.

e. Real Property Insurance – Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks, or noncombustible materials used in treatment plants, clearwells, filters, and the like.

14. Environmental Requirements -

a. Mitigation – At the conclusion of the proposal's environmental review process, specific actions were negotiated with environmental regulatory officials to avoid or minimize adverse environmental impacts. Those actions(s) are required for successful completion of the project and must be adhered to during project design and construction.

b. Project Modifications – The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

15. Vulnerability Assessments (VA) and Emergency Response Plans (ERP) – Congress enacted the Public Health Security and Bioterrorism Preparedness Response Act of 2002, Public Law 107-188 (Bioterrorism Act). The Bioterrorism Act amended the Safe Drinking Water (SDWA) to require all medium and large sized community water systems (serving populations greater than 3,300) to assess vulnerability to terrorist attack and develop emergency plans for response to such an attack. Medium and large community water systems are being monitored by the U.S. EPA for completion of VA's and ERP's.

Rural Development requires all financed water and wastewater systems to have a vulnerability assessment (VA) and an emergency response plan (ERP) in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operations. A certification that a VA is complete must be submitted within one year of the start of operations. All other borrowers must provide a certification that a VA and ERP are complete prior to bid authorization.

RD does not need or want a copy of the VA or ERP. The requested certification will be sufficient to meet our needs. Technical assistance providers are available to provide you with on site assistance if desired.

16. Civil Rights & Equal Opportunity – You should be aware of and will be required to comply with other Federal statute requirements including but not limited to:

    Section 504 of the Rehabilitation Act of 1973 – Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.

    Civil Rights Act of 1964 – All borrowers are subject to, and facilities must be operated in accordance with, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Subpart E of Part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this title.

    The Americans with Disabilities Act (ADA) of 1990 – This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provide services, programs, and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public.

    Age Discrimination Act of 1975 – This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

    RD financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

17. Contract Documents, Final Plans and Specifications –

    a. The contract documents should consist of the following:

        i. EJCDC Document No. C-520, 2007 Edition, "Suggested Form of Agreement between Owner and Contractor (Stipulated Price) and EJCDC Document No. C-700, 2007 Edition, "Standard General Conditions of the Construction Contract" and Attachments. The EJCDC document is issued under copyright and cannot be provided by RD.

ii. "WV Supplemental General Conditions." (See Attachment No. 10)

RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (August 20, 2009 Version)," **must be used by your engineer in the preparation of the contract documents.**

b. The contract documents must provide, as a minimum, the following insurance:

i. Liability Insurance – Personal Liability -- $500,000; Property Damage -- $200,000 each occurrence. This coverage must include indemnification of the District and its engineer. EJCDC Document C-700, "Standard General Conditions of the Construction Contract" and Exhibit H to RUS Bulletin 1780-26, "Supplementary Conditions" both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.

ii. Builder's Risk Insurance – On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof.

iii. Workers' Compensation – In accordance with applicable State laws.

c. The contract documents and final plans and specifications must be submitted to RD for approval.

d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.

18. Interim Financing – Interim financing may be used for the RD loan if it is available at reasonable rates and terms. You must provide RD with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RD review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No. 9).

19. Disbursement of Funds – The RD funds will be advanced as they are needed in the amount(s) necessary to cover the RD proportionate share of any disbursements required of your District, over 30 day periods. Funds will be disbursed by electronic transfer of funds.

Any RD grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

a. Federal grant awards (includes all Federal funding sources) are less than $120,000 per year.

b. The best available interest bearing account would not be expected to earn in excess of the following:

   Public Bodies:

   Interest earned on grant funds in excess of $100 per year will be submitted to RD at least quarterly as required in 7 CFR 3016.

c. The depository would require a minimum balance so high that it would not be feasible.

The District will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account. All deposits in excess of $250,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

The District must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RD.

20. Other Project Funds – Prior to advertisement for construction bids, you must provide evidence showing the approval of any other project funds. This evidence should include a copy of the funding award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the other project funds are available for expenditure. The evidence should consist of at least a letter from the funding agency stating the funds are available for expenditure.

21. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:

    a. Form RD 1940-1 – "Request for Obligation of Funds"
    b. RUS Bulletin 1780-12 – "Water or Waste System Grant Agreement"
    c. RUS Bulletin 1780-27 – "Loan Resolution (Public Bodies)"
    d. Form RD 400-1 – "Equal Opportunity Agreement"
    e. Form RD 400-4 – "Assurance Agreement"
    f. Form AD 1047 – "Certification Regarding Debarment – Primary"
    g. Form AD 1049 – "Certification Regarding Drug-Free Workplace"
    h. Form RD 1910-11 – "Applicant Certification, Federal Collection Policies"
    i. RD Instruction 1940-Q, Exhibit A-1 -- "Certification for Contracts, Grants, and Loans"
    j. Certification of Compliance
    k. Form RD 1942-46, "Letter of Intent to Meet Conditions"

22. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA - Rural Development State Office with a request for loan closing instructions to be issued.

23. Upon receipt of the loan and grant docket, which contains all the items required above, RD may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RD with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RD project funds will be considered to be RD grant funds and refunded to RD. If the amount of unused RD project funds exceeds the RD grant, that part would be RD loan funds and would be applied as an extra payment toward the loan balance.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RD reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the District still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RD reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely,

BOBBY LEWIS
State Director

Enclosures

cc: Tracey Rowan, Area Director
Cross Lanes, WV

Rick Roberts, P.E.
E.L. Robinson Engineering Co.
5088 Washington Street, West
Charleston, WV 25313

Michael D. Griffith, CPA
Griffith & Associates, PLLC
950 Little Coal River Road
Alum Creek, WV 25003

West Virginia Development Office
1900 Kanawha Blvd. East
Charleston, WV 25305

Lincoln County Commission
P.O. Box 497
Hamlin, WV 25523

USDA
United States Department of Agriculture

Rural Development

West Virginia State Office

1550 Earl Core Road, Suite 101
Morgantown, WV 26505

Voice 304.284.4860
1.800.295.8228
Fax 304.284.4893

May 21, 2015

Mr. Ben. F. Lowe, Jr., Chairman
Logan PSD
P.O. Box 506
Logan, West Virginia 25601

SUBJECT: Logan PSD Francis Creek Water Extension Project
(RD Loan - $533,000; RD Grant - $747,000)
Closing Instructions

Dear Chairman Lowe:

The preliminary closing for the subject loan and grant will be held on June 2, 2015 at 6:00 pm at the Logan PSD office (official closing date is June 5, 2015). The loan and grants must be handled and closed in accordance with your letter of conditions dated April 15, 2013. All of the requirements of those letters must be met and in addition, the loans and grants must be closed in accordance with RD Instruction 1942-A and RUS Instruction 1780. The following instructions and comments are offered:

1. RUS will sign and date the RUS Bulletin 1780-12 "Water and Waste System Grant Agreements".

2. Form AD 1048, "Certification Regarding Debarment – Lower Tier Covered Transactions," should be provided on contractors.

3. Form RD 1927-10, "Final Title Opinion," effective the date of loan closing (March 6, 2015) must be provided for all property owned by the PSD.

4. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," must be provided showing no exceptions dated for June 5, 2015.

5. A narrative from your attorney dated June 5, 2015 concerning all permits, certifications, or other items necessary to show all legal requirements can be met. This narrative should identify the condemnation proceedings and how they will be handled now that right of entry has been obtained. This should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and WV State Code Chapter 54 have been met with all acquisitions.

6. The certification on the Loan Resolution will need to be completed at closing.

USDA is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

7. The loan for $533,000 was obligated at the poverty interest rate of 2.125%; and Bond Counsel will be notified with a copy of this letter. **The monthly payment will be $1,706.00.**

8. On June 2, 2015, the date of the preliminary closing, the applicant must provide evidence of all required insurance and position fidelity bond coverage in compliance with Item 13 of the letter of conditions.

9. A compliance review will need to be conducted by the RUS prior to the start of construction.

10. All professional services agreements must be executed prior to loan closing.

If you have any questions regarding the above, please do not hesitate to contact me at (304) 776-5298 ext. 116.

Sincerely,

Tracey Rowan
Area IV Director

cc: USDA State Director
Samme Gee
Rick Roberts
Brian Abraham
Michael Griffith
Kelly Workman

RUS BULLETIN 1780-27
(Automated 8-97)

FORM APPROVED
OMB. No. 0575-0015

LOAN RESOLUTION
(Public Bodies)

A RESOLUTION OF THE _____

OF THE **Logan County Public Service District**

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS **Water**

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the **Logan County Public Service District**
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

FIVE HUNDRED THIRTY-THREE THOUSAND AND XX / 100 DOLLARS (533,000.00)

pursuant to the provisions of _____ ; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning. financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0015), Washington, DC 20503.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed **$747,000** under the terms offered by the Government; that Chairman and Secretary of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

Yeas 3 Nays 0 Absent 0

IN WITNESS WHEREOF, the _____ of the **Logan County Public Service District** has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 18th day of June, 2013

Logan County Public Service District

(SEAL) (if applicable)

By Ben Lowe
Ben Lowe

Attest: Mike Stone

Title **Chairman**

Title _____

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as Chairman of the Logan County Public Service District hereby certify that the Board of Directors of such Association is composed of 3 members, of whom 3 constituting a quorum were present at a meeting thereof duty called and held on the 18th day of June, 2013; and that the foregoing resolution was adopted at such meeting by the vote shown above. I further certify that as of June 5, 2015, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 2nd day of June, 2015

Ben F Lowe Jr

Title _____

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:
Ben F. Lowe, Jr., Chair
Mike Stone
Leonard Hovis
GENERAL MANAGER:
William Baisden, CPA

MINUTES

June 18, 2013

Respectfully submitted,

Ben F. Lowe Jr.
Mr. Ben F. Lowe, Jr., Chair

Mike Stone
Mr. Mike Stone, Secretary

Leonard Hovis
Mr. Leonard Hovis, Treasurer

The Logan County Public Service District held its Regular Monthly Board Meeting on June 18, 2013 at 6:30 p.m. at the Logan County Public Service District Business Office, 41 Armory Road, Monaville, West Virginia.

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

APPROVAL OF MINUTES: The Board reviewed the Minutes of the June 4, 2013 Special Board Meeting. A motion was made by Mr. Stone to approve the minutes as presented, seconded by Mr. Lowe. Mr. Hovis stated to let the record reflect that he abstains from the vote since he was not present at this meeting. Motion passed 2-0.

CUSTOMER/PUBLIC PRESENTATIONS: None.

ANNOUNCEMENTS: The next Special Board Meeting has been scheduled for Tuesday, July 2, 2013, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

The next Regular Board Meeting has been scheduled for Tuesday, July 16, 2013, at 6:30 p.m. at the Logan County PSD Office, 41 Armory Road, Monaville, West Virginia.

PROJECT IMPLEMENTATION:

Frances Creek Water Project – Tracey Rowan, Community Programs Specialist, USDA-Rural Development presented and read the RUS Letter of Conditions for the Frances Creek Water Project to the Board for approval and signature. A motion was made by Mr. Hovis to accept the Letter of Conditions and all its requirements, seconded by Mr. Stone. Motion passed 3-0.

Rick Roberts of E. L. Robinson Engineering Co. presented an invoice for E. L. Robinson Engineering Co. in the amount of $95,000.00 for the mapping and preliminary design phase to the Board for approval. A motion was made by Mr. Stone to approve the invoice, seconded by Mr. Hovis. Motion passed 3-0.

Anchor Road Water Project – Mr. Baisden reported that the contractors are making good progress. Mr. Baisden stated that Contract No. 1, Mike Enyart and Sons should be completed by the end of next week. Mr. Baisden stated that they have not started construction on the pump station. Mr. Baisden stated that they are waiting on AEP to supply the power for the pump station and tank site. In regards to Contract No. 2, Mr. Baisden stated that they have begun working on the tank foundation.

Mr. Baisden presented invoices and the IJDC drawdown to the Board for approval and signature as follows:

Mike Enyart & Sons, Inc.	$ 613,848.05
Welding, Inc.	85,500.00
Stafford Consultants, Inc.	26,304.11
	$ 725,652.16

A motion was made by Mr. Hovis to approve the invoices and IJDC drawdown as presented, seconded by Mr. Stone. Motion passed 3-0.

Marsh Fork Water Project – Mr. Roberts reported that the tank has been constructed except that the fence is not installed. Mr. Roberts stated that the pump station is operational. Mr. Roberts reported that Tri-State Pipeline, Inc. has one crew working at Piney Creek.

Mr. Roberts presented project invoices and the RUS and ARC Drawdown Resolution #7 to the Board for approval and signature as follows:

Tri-State Pipeline, Inc.	$ 116,829.02
E. L. Robinson Engineering, Co.	14,958.30
	$ 131,787.32

(RUS- $14,958.30) (ARC-$116,829.02)

A motion was made by Mr. Stone to approve the invoices and drawdown as presented, seconded by Mr. Hovis. Motion passed 3-0.

Big Harts Creek Water Project – Mr. Roberts stated that they resubmitted that IJDC application. A discussion was held on the pump station and easements.

Phase III-A Sewer Project – Mr. Roberts reported that Mike Enyart & Sons, Inc., Fields Excavating, Inc. and Rover Construction, Inc. are approximately 36% complete.

Mr. Roberts presented project invoices and the RUS Drawdown Resolution No. 4 to the Board for approval and signature as follows:

Mike Enyart & Sons, Inc.	$ 150,315.12
Fields Excavating, Inc.	279,156.86
Rover Construction, Inc.	82,745.07
E. L. Robinson Engineering, Co.	59,182.56
	$ 571,399.61

(RUS- $571,399.61) (SCBG-$0.00)

A motion was made by Mr. Stone to approve the invoices and drawdown as presented, seconded by Mr. Hovis. Motion passed 3-0.

Phase III-B1 Sewer Project –Mr. Roberts stated that there are no new updates on this project.

Fry Property Water Project – Mr. Roberts stated that the Infrastructure Council application has been submitted.

Hidden Valley/Airport Road Water Project – Mr. Roberts stated that the Infrastructure Council application has been submitted. Mr. Roberts stated that they have the design almost completed.

Other Projects – In regards to the Manns Knob Water Project, Mr. Baisden stated that the District is still working on this project. Mr. Baisden stated that they are waiting on AEP for the power drop for the pump station.

In regards to the Balls Branch Waterline Extension, Mr. Baisden stated that they started working on this project yesterday.

A discussion was held on the Claypool Waterline Replacement Project.

A discussion was held on the Airport Waterline Relocation.

A discussion was held on the Huff Creek Waterline Extension.

SYSTEM OPERATIONS: Mr. Baisden presented a Memorandum approving the payment of monthly invoices in the amount $165,230.56 to the Board for review, approval and signature. A motion was made by Mr. Hovis to approve the invoices as presented, seconded by Mr. Stone. Motion passed 3-0.

Mr. Baisden presented the monthly reports to the Board for review and discussion.

A discussion was held on the schedule of past due accounts.

Mr. Baisden stated that the District is in need of purchasing new computers and server. After a discussion, the Board authorized Mr. Baisden to purchase new computers for the office.

Eastern Wyoming Public Service District – Mr. Baisden reported that the next board meeting has been scheduled for Tuesday, July 9, 2013 at 6:30 p.m. at the Stephenson Water Treatment Plant.

A discussion was held on the new projects.

Other – None.

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT
June 18, 2013 Board Meeting
Attendance List

Name	Representing
Melinda Gullett	LCPSD
William Baisden	LCPSD
Rick Roberts	EL Robinson Eng.
Tracey Rowan	USDA-RD
Mike Stone	LCPSD
Ben Lowe Jr	LCPSD
Leonard Harris	LCPSD

LOGAN COUNTY PUBLIC SERVICE DISTRICT

2.3

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $533,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS (FRANCES CREEK PROJECT), SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LOGAN COUNTY PUBLIC SERVICE DISTRICT:

ARTICLE I
STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

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

"Bond Registrar" means the Issuer, which shall so serve by the Secretary of the Issuer.

"Bonds" means, collectively, the Series 2015 A Bonds, the Prior Bonds and any Parity Bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution.

"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 2015 A Bonds for all or a portion of the proceeds of the Series 2015 A Bonds.

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

"Consulting Engineers" means E.L. Robinson Engineering Company, Charleston, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Costs" or "Costs of the Project" means those costs described in Section 1.03E hereof to be a part of the cost of acquisition and construction of the Project.

"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.

"Depreciation Account" means the Depreciation Account established by the Prior Resolutions and continued by Section 5.01 hereof.

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

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

"Governing Body" or "Board" means the public service board of the Issuer, as is now or may hereafter be constituted.

"Government" means the United States of America, United States Department of Agriculture, Rural Utilities Service, which is expected to be the original purchaser of the Series 2015 A Bonds.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

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

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

"Issuer" means Logan County Public Service District, a public service district, public corporation and political subdivision of the State in Boone, Logan, Lincoln, Mingo and Wyoming Counties, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions from the Government dated April 15, 2013, and all amendments thereto.

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

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

"Outstanding" when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond canceled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Section 10.01 hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Registered Owners, any Bonds registered to the Issuer.

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

"Prior Bonds" means, collectively, the Issuer's (i) Water Revenue Bonds (Cow Creek Project), Series 1996 B, dated July 31, 1996, issued in the original aggregate principal amount of $1,780,000; (ii) Water Revenue Bonds (Whitman Creek Project), Series 1997 A, dated February 12, 1997, issued in the original aggregate principal amount of $1,000,000; (iii) Water Revenue Bonds (Harts Creek Project), Series 1997 B, dated March 25, 1997, issued in the original aggregate principal amount of $1,075,000; (iv) Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development Council), Series 1998 A, dated June 10, 1998, issued in the original aggregate principal amount of $815,000; (v) Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A, dated April 21, 1999, issued in the original aggregate principal amount of $5,050,000; (vi) Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia

Infrastructure and Jobs Development Council), Series 1999 C, dated June 17, 1999, issued in the original aggregate principal amount of $3,205,000; (vii) Water Revenue Bonds (Enaloc Project - West Virginia Water Development Authority), Series 1999 D, dated December 14, 1999, issued in the original aggregate principal amount of $330,000; (viii) Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority), dated September 6, 2001, issued in the original aggregate principal amount of $3,830,000; (ix) Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund), dated September 6, 2001, issued in the original aggregate principal amount of $2,670,000; (x) Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), dated January 24, 2002, issued in the original aggregate principal amount of $1,326,000; (xi) Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated October 9, 2002, issued in the original aggregate principal amount of $1,100,000; (xii) Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund), dated October 29, 2003, issued in the original aggregate principal amount of $3,600,000; (xiii) Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated April 27, 2005, issued in the original aggregate principal amount of $923,245; (xiv) Water Revenue Bonds (North Fork Project), Series 2008 A (West Virginia Infrastructure Fund), dated July 16, 2008, issued in the original aggregate principal amount of $1,700,000; (xv) Water Revenue Bonds (Holden Project), Series 2008 B (West Virginia Infrastructure Fund), dated July 16, 2008, issued in the original aggregate principal amount of $1,900,000; (xvi) Water Revenue Bonds (Upper Little Harts Creek Project), Series 2010 A (West Virginia Infrastructure Fund), dated March 16, 2010, issued in the original aggregate principal amount of $800,000; (xvii) Water Revenue Bonds (Marsh Fork Project), Series 2012 A (United States Department of Agriculture), dated December 13, 2012, issued in the original payment amount of $600,000; (xviii) Water Revenue Bonds (Anchor Road Project), Series 2013 A (West Virginia Infrastructure Fund), dated February 7, 2013, issued in the original aggregate principal amount of $3,800,000; (xix) Water Revenue Bonds (Big Harts Creek Project-Phase I), Series 2014 A (United States Department of Agriculture), dated July 24, 2014, issued in the original aggregate principal amount of $1,321,000; and (xx) Water Revenue Bonds (Big Harts Creek Project-Phase I), Series 2014 B (West Virginia Infrastructure Fund), dated July 24, 2014, issued in the original aggregate principal amount of $3,478,000, (collectively, the "Prior Bonds").

"Prior Resolutions" means, collectively, the resolutions of the Issuer authorizing the Prior Bonds adopted on July 30, 1996; February 6, 1997; March 20, 1997; May 28, 1998; April 8, 1999; June 10, 1999; December 14, 1999; August 30, 2001; January 10, 2002; October 8, 2002; October 28, 2003; April 26, 2005; July 15, 2008; March 2, 2010; December 11, 2012, January 22, 2013 and July 22, 2014.

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

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

"PSC Order" means, collectively, the final order or orders of the PSC, granting the Issuer a certificate of convenience and necessity to construct the Project and approving the financing for the Project and the rates of the System.

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

(a) Government Obligations;

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

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York; provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements; and provided further, that the 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.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

"Reserve Accounts" means, collectively, the respective reserve accounts of the Series 2015 A Bonds and the Prior Bonds.

"Reserve Requirements" means, collectively, the respective reserve requirements of the Series 2015 A Bonds and the Prior Bonds.

"Resolution" means this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and continued by Section 5.01 hereof.

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

"Series 1996 B Bonds" means the Water Revenue Bonds (Cow Creek Project), Series 1996 B, dated July 31, 1996, issued in the original aggregate principal amount of $1,780,000.

"Series 1997 A Bonds" means the Water Revenue Bonds (Whitman Creek Project), Series 1997 A, dated February 12, 1997, issued in the original aggregate principal amount of $1,000,000.

"Series 1997 B Bonds" means the Water Revenue Bonds (Harts Creek Project), Series 1997 B, dated March 25, 1997, issued in the original aggregate principal amount of $1,075,000.

"Series 1998 A Bonds" means the Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development Council), Series 1998 A, dated June 10, 1998, issued in the original aggregate principal amount of $815,000.

"Series 1999 A Bonds" means the Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A, dated April 21, 1999, issued in the original aggregate principal amount of $5,050,000.

"Series 1999 C Bonds" means the Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 C, dated June 17, 1999, issued in the original aggregate principal amount of $3,205,000.

"Series 1999 D Bonds" means the Water Revenue Bonds (Enaloc Project - West Virginia Water Development Authority), Series 1999 D, dated December 14, 1999, issued in the original aggregate principal amount of $330,000.

"Series 2001 A Bonds" means the Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority), dated September 6, 2001, issued in the original aggregate principal amount of $3,830,000.

"Series 2001 B Bonds" means the Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund), dated September 6, 2001, issued in the original aggregate principal amount of $2,670,000.

"Series 2002 A Bonds" means the Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), dated January 24, 2002, issued in the original aggregate principal amount of $1,326,000.

"Series 2002 B Bonds" means the Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund), dated October 9, 2002, issued in the original aggregate principal amount of $1,100,000.

"Series 2003 B Bonds" means the Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund), dated October 29, 2003, issued in the original aggregate principal amount of $3,600,000.

"Series 2005 A Bonds" means the Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated April 27, 2005, issued in the original aggregate principal amount of $923,245.

"Series 2008 A Bonds" means the Water Revenue Bonds (North Fork Project), Series 2008 A (West Virginia Infrastructure Fund), dated July 16, 2008, issued in the original aggregate principal amount of $1,700,000.

"Series 2008 B Bonds" means the Water Revenue Bonds (Holden Project), Series 2008 B (West Virginia Infrastructure Fund), dated July 16, 2008, issued in the original aggregate principal amount of $1,900,000.

"Series 2010 A Bonds" means the Water Revenue Bonds (Upper Little Harts Creek Project), Series 2010 A (West Virginia Infrastructure Fund), dated March 16, 2010, issued in the original aggregate principal amount of $800,000.

"Series 2012 A Bonds" means the Water Revenue Bonds (Marsh Fork Project), Series 2012 A (United States Department of Agriculture), dated December 13, 2012, issued in the original payment amount of $600,000.

"Series 2013 A Bonds" means the Water Revenue Bonds (Anchor Road Project) Series 2013 A (West Virginia Infrastructure Fund) dated February 7, 2013 issued in the original aggregate principal amount of $3,800,000.

"Series 2014 A Bonds" means the Water Revenue Bonds (Big Harts Creek Project-Phase I), Series 2014 A (United States Department of Agriculture), dated July 24, 2014, issued in the original aggregate principal amount of $1,321,000.

"Series 2014 B Bonds" means the Water Revenue Bonds (Big Harts Creek Project-Phase I), Series 2014 B (West Virginia Infrastructure Fund), dated July 24, 2014, issued in the original aggregate principal amount of $3,478,000.

"Series 2015 A Bonds" means the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture), of the Issuer, authorized to be issued hereby.

"Series 2015 A Bonds Reserve Account" means the Series 2015 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2015 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2015 A Bonds in the then current or any succeeding year.

"Series 2015 A Bonds Sinking Fund" means the Series 2015 A Bonds Sinking Fund established by Section 5.03A(2) hereof.

"Series 2015 Bonds Construction Trust Fund" means the Series 2015 Bonds Construction Trust Fund established by Section 5.01 hereof.

"Sinking Funds" means, collectively, the respective sinking funds of the Series 2015 A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the Supplemental Resolution authorizing the sale of the Series 2015 A Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to

the Series 2015 A Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by this Resolution to be set aside and held for the payment of or security for the Series 2015 A Bonds and the Prior Bonds, including the Sinking Funds, the Reserve Accounts, the Renewal and Replacement Fund and the Depreciation Account.

"System" means the complete public service properties of the Issuer for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for the System from any sources whatsoever.

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

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the 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.

Section 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public service district, public corporation and political subdivision of the State located in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State. The Issuer presently owns and operates a public water system in Boone, Logan, Lincoln, Mingo and Wyoming Counties. However, the Issuer deems it necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, in accordance with the plans and specifications prepared by the Consulting Engineer, which plans and specifications have been approved by the Government and the Issuer.

B. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project through the issuance of its Series 2015 A Bonds to the Government.

C. The estimated maximum cost of acquisition and construction of the Project is $2,830,000, of which not more than $533,000 will be obtained from the Series 2015 A Bonds; $747,000 will be obtained from a grant from the Government; $1,500,000 will be

obtained from a Small Cities Block Grant; and $50,000 will be obtained from a Lincoln County Commission grant.

D. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all Operating Expenses of the System, the principal of and interest on the Prior Bonds and the Series 2015 A Bonds and to make payments into all funds and accounts provided for in this Resolution and the Prior Resolutions.

E. It is deemed necessary for the Issuer to issue the Series 2015 A Bonds in the aggregate principal amount of not more than $533,000 to permanently finance a portion of the costs of acquisition and construction of the Project. Such costs shall be deemed to include the cost of acquisition or 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 on the Series 2015 A Bonds prior to and during acquisition or construction and for six months after completion of acquisition or construction of the Project; 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 and such other expenses as may be necessary or incident to the financing herein authorized, the acquisition or construction of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof.

F. The Series 2015 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 2015 A Bonds, the Issuer will obtain (1) the certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the Prior Bonds have been met; and (2) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2015 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

I. It is in the best interests of the Issuer that the Series 2015 A Bonds be sold to the Government pursuant to the terms and provisions of the Letter of Conditions.

J. The Issuer has complied with all requirements of West Virginia law and the Letter of Conditions relating to authorization of the acquisition, construction and operation of the Project and issuance of the Series 2015 A Bonds, or will have so complied prior to issuance of any thereof, including, among other things, the approval of the Project and the financing thereof by the West Virginia Infrastructure and Jobs Development Council and the obtaining of the PSC Order, the time for rehearing and appeal of which has expired or will have been waived prior to the issuance of the Series 2015 A Bonds.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Series 2015 A Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bonds by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II
AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF PROJECT

Section 2.01. Authorization of Acquisition and Construction of Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated maximum cost of $2,830,000, in accordance with the plans and specifications prepared by the Consulting Engineers, approved by the Government and the Issuer and heretofore filed in the office of the Governing Body. The proceeds of the Series 2015 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, which are in an amount and otherwise compatible with the financing plan submitted to the Government.

ARTICLE III
AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS

Section 3.01. Authorization of Bonds. For the purposes of paying a portion of the costs of the Project and paying the costs of issuance of the Series 2015 A Bonds and related costs, there shall be and hereby are authorized to be issued negotiable Series 2015 A Bonds of the Issuer. The Series 2015 A Bonds shall be issued as a single bond, designated "Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture)," in the aggregate principal amount of not more than $533,000, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2015 A Bonds shall be issued in such principal amounts; shall bear interest at such rate or rates, not exceeding the legal maximum rate, payable monthly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Series 2015 A Bonds.

The Series 2015 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, shall be payable as provided in

the Bond form hereinafter set forth, and shall have such other terms not inconsistent with this Resolution, as shall be set forth in the Supplemental Resolution and such Bond form.

Section 3.03. Execution of Bonds. The Series 2015 A Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of the Chairperson, and the seal of the Issuer shall be impressed thereon and attested by the manual or facsimile signature of the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Negotiability, Transfer and Registration. The Series 2015 A Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, but the Bonds, and the right to principal of and stated interest on the Bonds, may only be transferred by transfer of the registration thereof upon the books of the Bond Registrar, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2015 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer.

No registration of transfer of the Series 2015 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Bonds.

The Issuer shall be the Bond Registrar and will keep, or cause to be kept by its agent, at its office, books for the registration and transfer of the Series 2015 A Bonds and, upon presentation for such purpose, the Bond Registrar shall, under such reasonable regulations as it may prescribe, register the Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2015 A Bonds for registration or transfer only if ownership thereof is to be registered in the name of the Government, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust and/or such other identifying number and information as

may be required by law. The Series 2015 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2015 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Series 2015 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. All Bonds so surrendered shall be canceled 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 3.06. Bonds not to be Indebtedness of the Issuer. The Series 2015 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 the Series 2015 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2015 A Bonds or the interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2015 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Series 2015 A Bonds and the Prior Bonds and to make the payments into all funds and accounts provided for in this Resolution and the Prior Resolutions, are hereby irrevocably pledged to such payments as they become due.

Section 3.08. Form of Bonds. The text of the Series 2015 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 2015 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT), SERIES 2015 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1 $_____

FOR VALUE RECEIVED, on this ___day of _____, 2015, LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of _____DOLLARS ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of _____% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of $____, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public water facilities of the Issuer, the Project and any further improvements and 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 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on _____, 2015, and a Supplemental Resolution duly adopted by the Issuer on _____, 2015 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, DATED JULY 31, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,780,000; (2) WATER REVENUE BONDS (WHITMAN CREEK PROJECT), SERIES 1997 A, DATED FEBRUARY 12, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,000,000; (3) WATER REVENUE BONDS (HARTS CREEK PROJECT), SERIES 1997 B, DATED MARCH 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,075,000; (4) WATER REVENUE BONDS (ELK CREEK/SPICE CREEK/VERNER PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1998 A, DATED JUNE 10, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $815,000; (5) WATER REVENUE BONDS (MILL CREEK PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 A, DATED APRIL 21, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $5,050,000; (6) WATER REVENUE BONDS (CRAWLEY CREEK/CHIEF LOGAN PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 C, DATED JUNE 17, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,205,000; (7) WATER REVENUE BONDS (ENALOC PROJECT - WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), SERIES 1999 D, DATED DECEMBER 14, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $330,000; (8) WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA WATER DEVELOPMENT

AUTHORITY), DATED SEPTEMBER 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,830,000; (9) WATER REVENUE BONDS, SERIES 2001 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER, 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,670,000; (10) WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JANUARY 24, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,326,000; (11) WATER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,100,000; (12) WATER REVENUE BONDS, SERIES 2003 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 29, 2003, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,600,000; (13) WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED APRIL 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $923,245; (14) WATER REVENUE BONDS (NORTH FORK PROJECT), SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED JULY 16, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,700,000; (15) WATER REVENUE BONDS (HOLDEN PROJECT), SERIES 2008 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED JULY 16, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,900,000; (16) WATER REVENUE BONDS (UPPER LITTLE HARTS CREEK PROJECT), SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 16, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $800,000; (17) WATER REVENUE BOND (MARSH FORK PROJECT), SERIES 2012 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 13, 2012, ISSUED IN THE ORIGINAL PAYMENT AMOUNT OF $600,000; (18) WATER REVENUE BONDS (ANCHOR ROAD PROJECT), SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 7, 2013, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,8000,000; (19) WATER REVENUE BONDS (BIG HARTS CREEK PROJECT-PHASE I), SERIES 2014 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JULY 24, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,321,000; AND (20) WATER REVENUE BONDS (BIG HARTS CREEK PROJECT-PHASE I), SERIES 2014 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED JULY 24, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,478,000, (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Prior Bonds and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2015 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2015 A Bonds

Reserve Account and unexpended proceeds of this Bond. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2015 A Bonds Reserve Account, an amount equal to the maximum amount of principal and interest which will become due on this Bond in any year, and in the respective reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements in the Resolution, this Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements in the Resolution, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

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

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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 and interest on this Bond.

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

IN WITNESS WHEREOF, LOGAN COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

_____
Chairperson

[SEAL]

ATTEST:

_____
Secretary

(Form of)

RECORD OF ADVANCES

AMOUNT	DATE	AMOUNT	DATE
(1) $		(19) $	
(2) $		(20) $	
(3) $		(21) $	
(4) $		(22) $	
(5) $		(23) $	
(6) $		(24) $	
(7) $		(25) $	
(8) $		(26) $	
(9) $		(27) $	
(10) $		(28) $	
(11) $		(29) $	
(12) $		(30) $	
(13) $		(31) $	
(14) $		(32) $	
(15) $		(33) $	
(16) $		(34) $	
(17) $		(35) $	
(18) $		(36) $	
		$	
TOTAL			

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, __.

_____

In the presence of:

_____

Section 3.09. Sale of Bonds. The Series 2015 A Bonds shall be sold to the Government pursuant to the terms and conditions of the Letter of Conditions. The Letter of Conditions is hereby approved and the provisions of the Letter of Conditions are specifically incorporated in this Resolution.

ARTICLE IV

[RESERVED]

ARTICLE V
SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

(1) Revenue Fund (established by the Prior Resolutions);

(2) Renewal and Replacement Fund (established by the Prior Resolutions);

(3) Depreciation Account (established by the Prior Resolutions); and

(4) Series 2015 Bonds Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special account is created with and shall be held by the Commission:

(1) Series 2015 A Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. Funds in the Revenue Fund shall be disposed of only in the following manner and order of priorities and as provided in the Prior Resolutions.

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

(2) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the interest payments on the Prior Bonds in the amounts and on the dates required by

the Prior Resolutions; and (ii) commencing on the day which is 30 days following the date of delivery of the Series 2015 A Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2015 A Bonds Sinking Fund hereby established at the National Finance Office, the amount of interest set forth in the Series 2015 A Bonds.

(3) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the principal payments of the Prior Bonds in the amounts and on the dates required by the Prior Resolutions; and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2015 A Bonds and continuing on the corresponding day of each month, remit to the National Finance Office for deposit in the Series 2015 A Bonds Sinking Fund, the amount of principal set forth in the Series 2015 A Bonds.

The deposits into the Series 2015 A Bonds Sinking Fund provided in this paragraph and in Section 5.03A (2) above, constitute actual payments of principal of and interest on the Series 2015 A Bonds to the Government.

(4) The Issuer shall next, each month, from the moneys in the Revenue Fund, (i) make the reserve account payments into the Reserve Accounts of the Prior Bonds in the amounts and on the dates required by the Prior Resolutions; and (ii) commencing on the day which is 24 months following the date of delivery of the Series 2015 A Bonds and continuing on the corresponding day of each month, remit to the Commission for deposit in the Series 2015 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2015 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 2015 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 2015 A Bonds Reserve Requirement.

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

(6) The Issuer shall next, each month, from the moneys in the Revenue Fund, make the payments into the Depreciation Account in the amounts and on the dates required by the Prior Resolutions.

Moneys in the Series 2015 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest on the Series 2015 A Bonds as the same shall become due. Moneys in the Series 2015 A Bonds Reserve Account shall be used only for the

purposes of paying principal of and interest on the Series 2015 A Bonds as the same shall come due, when other moneys in the Series 2015 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2015 A Bonds Reserve Account (if fully funded) shall be transferred, not less than once each year, to the Series 2015 Bonds Construction Trust Fund during construction of the Project and thereafter, to the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2015 A Bonds and then to the next ensuing principal payment due thereon.

Any withdrawals from the Series 2015 A Bonds Reserve Account which result in a reduction in the balance therein to an amount below the Series 2015 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2015 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

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 2015 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the Series 2015 A Bonds Reserve Account created hereunder, and all amounts required for such account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Government, the Issuer shall make the necessary arrangements whereby required payments into the Series 2015 A Bonds Reserve Account shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates hereunder.

Moneys in the Series 2015 A Bonds Reserve Account shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2015 A Bonds Sinking Fund and the Series 2015 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2015 A Bonds under the conditions and restrictions set forth herein.

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

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent, or the Depository Bank, on such dates as the respective parties shall require, such additional sums as shall be necessary to pay their respective charges and the fees then due. If required by the Government, the Issuer shall make the necessary arrangements whereby payments to the Commission under this paragraph shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

D. 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.

E. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as herein above provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Section 5.03A hereof, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority.

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

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

ARTICLE VI
APPLICATION OF BOND PROCEEDS

Section 6.01. Application of Bond Proceeds. All moneys received from time to time from the sale of the Series 2015 A Bonds shall be deposited in the Series 2015 A Bonds Construction Trust Fund and shall be used solely to pay costs of the Project and until so expended, are hereby pledged as additional security for the Series 2015 A Bonds.

Section 6.02. Disbursements from Bond Construction Trust Fund. The Series 2015 A Bonds Construction Trust Fund shall be kept separate and apart from all other funds of the Issuer, and shall be drawn out, used and applied by the Issuer solely for the payment of the costs of the Project and purposes incidental thereto, including payment of any borrowings by the Issuer made for the purpose of temporarily financing a portion of the costs of the Project and payment of interest on the Series 2015 A Bonds prior to and during construction and for a period up to six months after completion of construction and for no other purposes whatsoever. If approved by the Government, the moneys in said fund shall be secured at all times by Government Obligations having a fair market value at least equal to the balance in said fund in excess of the amount insured by the FDIC. If for any reason the amounts on deposit in the Series

2015 A Bonds Construction Trust Fund are not necessary for, or are not applied to, such purposes, then such unapplied amounts shall be deposited by the Issuer as determined by the rules and regulations of the Government. All such proceeds shall constitute a trust fund for such purposes, and there is hereby created a lien upon such moneys, until so applied, in favor of the Registered Owners of the Series 2015 A Bonds.

Expenditures or disbursements from the Series 2015 A Bonds Construction Trust Fund shall be made only after such expenditures or disbursements have been approved in writing by the Governing Body, the Consulting Engineers and the Government.

The Issuer shall coordinate with the Government on the monthly payment of the costs of the Project and shall submit invoices and requisitions as directed by the Government.

ARTICLE VII
ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2015 A Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Registered Owner of the Series 2015 A Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2015 A Bonds or the interest thereon are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2015 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No Registered Owner of the Series 2015 A Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Series 2015 A Bonds or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Series 2015 A Bonds shall be secured by a first lien on the Net Revenues on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. The Net Revenues in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Series 2015 A Bonds and to make the payments into all funds and accounts and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein and therein, to such payments as the same become due, and for the other purposes provided in this Resolution and the Prior Resolutions.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by state law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the

requirements of this Resolution and the Prior Resolutions. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved in the PSC Order and such rates are hereby adopted.

So long as the Series 2015 A Bonds are Outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution. In the event the schedule of rates, fees and charges initially established for the System in connection with the Series 2015 A Bonds shall prove to be insufficient to produce the required sums set forth in this Resolution, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Resolution.

Section 7.05. Sale of the System. So long as the Prior Bonds are Outstanding, the System may not be sold, transferred, mortgaged, leased or otherwise disposed of, except in accordance with the terms of the Prior Resolutions. So long as the Series 2015 A Bonds are Outstanding, the System may be sold, transferred, mortgaged, leased or otherwise disposed of, or encumbered (other than any statutory mortgage lien created under the Act on account of obligations issued within the restrictions hereof) only with the written consent of the Government and such consent will specify the disposition of any such sale or transfer.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as the Series 2015 A Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2015 A Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.07 hereof and in the Prior Resolutions (so long as the Prior Bonds are Outstanding). All obligations hereafter issued by the Issuer payable from the revenues of the System, except such Parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2015 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein and in the Prior Resolutions have been made and are current at the time of 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 liens of the Series 2015 A Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Series 2015 A Bonds and the interest thereon in this Resolution, or upon the System or any part thereof.

Section 7.07. Parity Bonds. So long as the Prior Bonds are Outstanding, no Parity Bonds shall be issued except in accordance with the terms of the Prior Resolutions. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner provided herein and with the prior written consent of the Government.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Prior Bonds and the Series 2015 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, acquisition or construction of extensions or improvements to the System or refunding any Bonds Outstanding, or both such purposes.

So long as the Series 2015 A 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 Series 2015 A Bonds, representing 75% of the then-outstanding principal indebtedness.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Series 2015 A Bonds and the Registered Owners of any Parity Bonds issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their respective liens on the revenues of the System and their respective source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of another series on a parity therewith. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2015 A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the funds and accounts provided for in this Resolution with respect to the Bonds then

Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Government and its agents and representatives to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Government such documents and information as it may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any State and federal grants or other sources of financing for the Project.

The Issuer shall permit the Government and its agents and representatives to inspect all records 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.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Series 2015 A Bonds issued pursuant to this Resolution shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body.

The Issuer shall file with the Government or any Registered Owner of the Series 2015 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 Resolution and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and 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 said Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2015 A Bonds and shall submit said report to the Government. Such audit report submitted to the Government shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and this Resolution and that the Gross Revenues are adequate to meet the Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Letter of Conditions 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 Government and its 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 Government and its 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 Government with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to issuance of the Series 2015 A Bonds, approvals of equitable rates or charges for the use of and service rendered by the System shall have been obtained 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 reductions in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Series 2015 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2015 A Bonds, including the Prior Bonds; provided, that in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Series 2015 A Bonds Reserve Account, and the Reserve Accounts for obligations on a parity with the Series 2015 A Bonds, including the Prior, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Series 2015 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2015 A Bonds. In any event, the Issuer shall not reduce the rates or charges for services of the System described in Section 7.04.

Section 7.10. Operating Budget. 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 Government within 30 days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Government and to any Registered Owner of the Series 2015 A 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 Government and any Registered Owner of the Series 2015 A Bonds or anyone acting for and on behalf of such Registered Owner.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain the certificate of the Consulting Engineers, certifying that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Government, the Project will be adequate for the purposes for which it was designed, the funding plan as submitted to the Government is sufficient to pay the costs of the 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 Government, 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. The Issuer shall employ qualified operating personnel properly certified by the State to operate the System so long as the Series 2015 A Bonds are Outstanding.

Section 7.12. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals, or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent, to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any fees, rates, rentals or other charges for the services or 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, fees, 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 of the PSC, discontinue and shut off the services of the System to all delinquent users of the services of the System, and will not restore such services of the System until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid, and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. The Issuer hereby covenants and agrees that, so long as the Series 2015 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(A) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured prior to acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground insurable portions of the System, including machinery and equipment housed therein, in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer on all structures and mechanical and electrical equipment in place or stored on the site during construction of the Project in the full insurable value thereof.

(B) Public Liability Insurance, with limits of not less than $1,000,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 from claims for damage to property of others which may arise from the operation of the System.

(C) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated for the benefit of the Issuer, with limits of not less than $1,000,000 for personal liability to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 from claims for damage to property of others which may arise from such operation of vehicles.

(D) Workers' Compensation Coverage for All Employees of the System Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each contractor dealing 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.

(E) Fidelity Bonds will be provided as to every member, officer and employee of the Issuer having custody of the Revenue Fund or of any other funds or property of the System in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount required by the Government and to be increased thereafter as necessary to cover the maximum amount of funds under control of that position at any one time.

(F) Flood Insurance will be obtained by the Issuer if available; however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

(G) Construction Bonds. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction. The Issuer shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Connections. To the extent permitted by the laws of the State and rules and regulations of the PSC, the Issuer shall require every owner, tenant or occupant of any house, dwelling or building intended to be served by the System to connect thereto.

Section 7.17. Completion and Operation of Project; Permits and Orders. The Issuer 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 other state

agencies necessary for the acquisition and construction of the Project and the operation of the System and all approvals for the issuance of the Series 2015 A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2015 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Series 2015 A Bonds; provided however, that the statutory mortgage lien in favor of the Registered Owners of the Series 2015 A Bonds shall be on a parity with the statutory mortgage lien in favor of the Registered Owners of the Prior Bonds.

Section 7.19. Compliance with Letter of Conditions and Law. The Issuer shall perform, satisfy and comply with all the terms and conditions of the Letter of Conditions, this Resolution and the Act. The Issuer shall also comply with all applicable laws, rules and regulations issued by the Government 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 7.20. Contracts. The Issuer shall, simultaneously with the delivery of the Series 2015 A Bonds or immediately thereafter, enter into written contracts for the immediate acquisition or construction of the Project.

ARTICLE VIII
INVESTMENT OF FUNDS

Section 8.01. Investment of Funds. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section.

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 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 2015 A Bonds are Outstanding.

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

ARTICLE IX
DEFAULTS AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2015 A Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any Series 2015 A Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2015 A Bonds set forth in this Resolution, any Supplemental Resolution or the Series 2015 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 Government, the Depository Bank, the Bond Registrar, the Paying Agent or the Registered Owner; or

(C) 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

(D) If a default occurs under the Prior Resolutions or the Prior Bonds.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2015 A Bonds may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2015 A 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 Series 2015 A Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the resolution with respect to the Series 2015 A Bonds, or the rights of such Registered Owners; provided however, that all rights and remedies of the Registered Owners of the Series 2015 A Bonds shall be on a parity with those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of the Series 2015 A Bonds may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the completion of the Project, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default, with respect to the Bonds, the Registered Owner shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and any interest thereon and the deposits into the funds and accounts herein provided and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control the System, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to the System as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution for any reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent Event of Default, any Registered Owner of Bonds issued pursuant to this Resolution shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers herein above conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of Bonds issued pursuant to this Resolution. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Registered Owners, and the curing and making good of any default under the provisions of this Resolution, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, 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 2015 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then this Resolution and the pledge of Net Revenues and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2015 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through direct payment of the entire outstanding principal of and all accrued interest on the Series 2015 A Bonds to the Registered Owners thereof, the Issuer may not defease the Series 2015 A Bonds or provide for payment thereof by escrow or other similar arrangements.

ARTICLE XI
MISCELLANEOUS

Section 11.01. Modification or Amendment of Resolution. Prior to the issuance of the Series 2015 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2015 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 2015 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2015 A Bonds then Outstanding; provided, that no change shall be made in the maturity of the Series 2015 A Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2015 A Bonds required for consent to the above-permitted amendments or modifications.

Section 11.02. Resolution Constitutes Contract. The provisions of this Resolution shall constitute a contract between the Issuer and the Registered Owners of the Series 2015 A Bonds and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution, any Supplemental Resolution or the Series 2015 A Bonds.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed; Prior Resolutions. Except for the Prior Resolutions, all orders or resolutions and parts thereof in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided, that in the event of any conflict between the Resolution and the Prior Resolutions, the Prior Resolutions shall control (unless less restrictive), so long as the Prior Bonds are outstanding.

Section 11.06. Covenant of Due Procedure. 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 its adoption.

Adopted this 2nd day of June, 2015.

Ben F. Lowe Jr.
Chairperson and Member

Mike Stone
Member

Leonard Ross
Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of LOGAN COUNTY PUBLIC SERVICE DISTRICT on the 2nd day of June, 2015.

Dated this 5th day of June, 2015.

[SEAL]

Secretary

EXHIBIT A

PROJECT DESCRIPTION

The Project consists of the construction of certain additions, extensions and improvements to the District's water treatment and distribution facilities (Frances Creek Project) in Lincoln County.

LOGAN COUNTY PUBLIC SERVICE DISTRICT 2.3
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A
(UNITED STATES DEPARTMENT OF AGRICULTURE)

BOND RESOLUTION

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LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (FRANCES CREEK PROJECT), SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A 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 June 2, 2015 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $533,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS (FRANCES CREEK PROJECT), SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture), of the Issuer, in the aggregate principal amount not to exceed $533,000 (the "Bonds" or the "Series 2015 A Bonds"), all in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the

Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Bonds are proposed to be purchased by the Government pursuant to the Letter of Conditions; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LOGAN COUNTY PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture), of the Issuer, in the original aggregate principal amount of $533,000. The Series 2015 A Bonds shall be issued in the form of one Bond, shall be dated the date of delivery, shall mature forty years from the date thereof, shall be numbered AR-1, and the principal amount advanced under the Series 2015 A Bonds shall bear interest at the rate of 2.125% per annum. Monthly installments of interest only on the amounts advanced under the Series 2015 A Bonds are payable 30 days following the date of delivery of the Series 2015 A Bonds and on the corresponding day of each month thereafter for the first 24 months after the date of delivery of the Series 2015 A Bonds, and thereafter, monthly installments of principal of and interest on the Series 2015 A Bonds, in the aggregate amount of $1,706.00, are payable on the corresponding day of each month, except that the final installment on the Series 2015 A Bonds shall be paid at the end of 38 years from the date of the Series 2015 A Bonds in the sum of the unpaid principal and interest due on the date thereof. The Series 2015 A Bonds are subject to prepayment as set forth in the Resolution and the Series 2015 A Bonds. All principal and interest payments on the Series 2015 A Bonds will be paid by the Issuer directly to the order of the United States of America at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103.

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

Section 3. The Issuer hereby approves and accepts the Letter of Conditions and all amendments thereto, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The price of the Bonds shall be 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 Logan Bank & Trust, Logan, West Virginia, to serve as the Depository Bank under the Resolution.

Section 5. The proceeds of the Bonds, as advanced from time to time, shall be deposited in the Series 2015 Bonds Construction Trust Fund for payment of the costs of the Project and the costs of issuance of the Bonds and related costs.

Section 6. 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 Government pursuant to the Letter of Conditions on or about June 5, 2015.

Section 7. 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 8. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2015 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 9. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 10. 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 11. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 2nd day of June, 2015.

Chairperson and Member

Member

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of LOGAN COUNTY PUBLIC SERVICE DISTRICT on the 2nd day of June, 2015.

Dated this 5th day of June, 2015.

[SEAL]

Mike Stone

Secretary

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

MINUTES ON ADOPTION OF BOND RESOLUTIONS
AND SUPPLEMENTAL RESOLUTIONS

The undersigned duly appointed Secretary of the Public Service Board of Logan County Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of said Public Service Board:

*** *** ***

The Public Service Board of Logan County Public Service District met in regular session, pursuant to notice duly posted, on the 2nd day of June, 2015, in Logan, West Virginia, at the hour of 6:30 p.m.

PRESENT:	Ben F. Lowe, Jr.	-	Chairperson and Member
	Mike Stone	-	Secretary and Member
	Leonard Hovis	-	Treasurer and Member
	William Basiden	-	Manager
	Melinda Gullett	-	Logan County PSD
	Brian Abraham	-	Counsel for Logan County PSD
	Rick Roberts	-	E.L. Robinson Engineering Co.
	Samme Gee	-	Jackson Kelly, Bond Counsel
	Mike Webb	-	Region II Planning & Development
	Tracey Rowan	-	USDA Rural Development

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 brought before it.

*** *** ***

Thereupon, the Chairperson presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LOGAN COUNTY PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $533,000 IN

AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS (FRANCES CREEK PROJECT), SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

*** *** ***

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

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (FRANCES CREEK PROJECT), SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE); DESIGNATING A 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.

*** *** ***

[The remainder of this page intentionally left blank, signature page follows.]

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

_____ Ben F. Foote Jr.
Chairperson

_____ Mike Stone
Secretary

CERTIFICATION

I hereby certify that the foregoing action of Logan County Public Service District remains in full force and effect and has not been amended, rescinded, superseded repealed or changed.

WITNESS my signature on this 2nd day of June, 2015.

[SEAL]

Mike Stone

Secretary

AFFIDAVIT OF PUBLICATION

I, Jeffrey T. Vaughn General Manager of the The Williamson Daily News (Mingo County), Logan Banner (Logan County), Coal Valley News (Boone County), Gilbert Times (Mingo County) and Independent Herald (Wyoming County) West Virginia, do hereby certify that the annexed notice was published in said paper for 1 successive time(s)

Logan Banner 5-22-15

Given under my hand this 25 day of a May, 2015

State of West Virginia
to-wit:

Subscribed and sworn before me this 25 day of May, 2015

OFFICIAL SEAL
Notary Public, State Of West Virginia
KIMBERLY AUSTIN CHAPMAN
PO Box 1660, PO Box 2453
Williamson, WV 25661
My Commission Expires July 23, 2019

Kimberly Austin Chapman

Notary Public for West Virginia

Cost of Publication $ 43.06

Copy of Publication
See attached

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, June 2, 2015, at 6:30 p.m., prevailing time, at the District's office at 41 Armory Road, Monaville, West Virginia, for the following purposes:

1. To consider and adopt proposed Bond Resolutions authorizing its Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture), in the aggregate principal amount not to exceed $533,000, (the "Bonds"), to permanently finance a portion of the costs of certain improvements and extensions to the existing public water system of the District (the "Project").
2. To consider and adopt proposed Bond Resolution and Supplemental Resolution approving the terms and other provisions of the Bonds.
3. To consider and approve all other resolution documents and matters in connection with the Project.

This meeting is open to the press and the public and any person interested may attend such meeting.

/s/ Mike Stone
Secretary

5-22-15

NUMBER
AR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

No. AR-1 $533,000

FOR VALUE RECEIVED, on this 5th day of June, 2015, LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State (the "Issuer"), promises to pay to the order of the UNITED STATES OF AMERICA (the "Government"), at its National Finance Office, 1520 Market Street, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, and in the manner provided below, the principal sum of FIVE HUNDRED THIRTY-THREE THOUSAND DOLLARS ($533,000), or such lesser amount as is set forth on the Record of Advances attached hereto and incorporated herein by reference, plus interest on the unpaid principal balance at the rate of 2.125% per annum.

The principal of and interest on this Bond shall be paid in the following installments on the following dates: Monthly installments of interest only on the amounts advanced hereunder, commencing 30 days following the date of delivery of this Bond and continuing on the corresponding day of each month thereafter for the first 24 months after the date hereof, and thereafter, on the corresponding day of each month in installments of principal and interest in the aggregate amount of $1,706.00, except that the final installment shall be paid at the end of 40 years from the date of this Bond in the sum of the unpaid principal and interest due on the date thereof and except that prepayments may be made as provided below. This consideration shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to the Issuer as requested by the Issuer and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer. Extra payments, as defined in the regulations of the Government, shall, after payment of interest, be applied to the installment last to come due under this Bond and shall not affect the obligation of the Issuer to pay the remaining installments as scheduled herein.

Any amount advanced or expended by the Government for the collection hereof, or to preserve or to protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government, shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by the Issuer to the Government without demand. The Issuer agrees to use the loan evidenced hereby solely for purposes authorized by the Government. The Issuer has granted to the Government a lien on the proceeds of this Bond until such proceeds are expended for authorized purposes.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance of this Bond and related costs. The existing public water facilities of the Issuer, the Project and any further improvements and 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 of the Code of West Virginia, 1931, as amended (the "Act"), a Bond Resolution duly adopted by the Issuer on June 2, 2015, and a Supplemental Resolution duly adopted by the Issuer on June 2, 2015 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Resolution.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT WITH THE ISSUER'S (1) WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, DATED JULY 31, 1996, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,780,000; (2) WATER REVENUE BONDS (WHITMAN CREEK PROJECT), SERIES 1997 A, DATED FEBRUARY 12, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,000,000; (3) WATER REVENUE BONDS (HARTS CREEK PROJECT), SERIES 1997 B, DATED MARCH 25, 1997, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,075,000; (4) WATER REVENUE BONDS (ELK CREEK/SPICE CREEK/VERNER PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1998 A, DATED JUNE 10, 1998, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $815,000; (5) WATER REVENUE BONDS (MILL CREEK PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 A, DATED APRIL 21, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $5,050,000; (6) WATER REVENUE BONDS (CRAWLEY CREEK/CHIEF LOGAN PROJECT - WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL), SERIES 1999 C, DATED

SPECIMEN

JUNE 17, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,205,000; (7) WATER REVENUE BONDS (ENALOC PROJECT - WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), SERIES 1999 D, DATED DECEMBER 14, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $330,000; (8) WATER REVENUE BONDS, SERIES 2001 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED SEPTEMBER 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,830,000; (9) WATER REVENUE BONDS, SERIES 2001 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER, 6, 2001, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,670,000; (10) WATER REVENUE BONDS, SERIES 2002 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JANUARY 24, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,326,000; (11) WATER REVENUE BONDS, SERIES 2002 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 9, 2002, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,100,000; (12) WATER REVENUE BONDS, SERIES 2003 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED OCTOBER 29, 2003 ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,600,000; (13) WATER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED APRIL 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $923,245; (14) WATER REVENUE BONDS (NORTH FORK PROJECT), SERIES 2008 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED JULY 16, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,700,000; (15) WATER REVENUE BONDS (HOLDEN PROJECT), SERIES 2008 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED JULY 16, 2008, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,900,000; (16) WATER REVENUE BONDS (UPPER LITTLE HARTS CREEK PROJECT), SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 16, 2010, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $800,000; (17) WATER REVENUE BOND (MARSH FORK PROJECT), SERIES 2012 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED DECEMBER 13, 2012, ISSUED IN THE ORIGINAL PAYMENT AMOUNT OF $600,000; (18) WATER REVENUE BONDS (ANCHOR ROAD PROJECT), SERIES 2013 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 7, 2013, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,8000,000; (19) WATER REVENUE BONDS (BIG HARTS CREEK PROJECT-PHASE I), SERIES 2014 A (UNITED STATES DEPARTMENT OF AGRICULTURE), DATED JULY 24, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,321,000; AND (20) WATER REVENUE BONDS (BIG HARTS CREEK PROJECT-PHASE I), SERIES 2014 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED JULY 24, 2014, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,478,000, (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Resolution) to be derived from the System, on a parity with the pledge of Net Revenues in favor of the registered owners of the Prior Bonds and from moneys in the reserve account created under the Resolution for this Bond (the "Series 2015 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay

the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon, except from said special fund provided from the Net Revenues, the moneys in the Series 2015 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2015 A Bonds Reserve Account, an amount equal to the maximum amount of principal and interest which will become due on this Bond in any year, and in the respective reserve accounts for any other obligations outstanding on a parity with this Bond, including the Prior Bonds and the Series 2014 B Bonds, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owner of this Bond for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements in the Resolution, this Bond is transferable, as provided in the Resolution, only upon the books of the Secretary of the Issuer, as registrar (the "Registrar"), which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its attorney or legal representative duly authorized in writing.

Subject to the registration requirements in the Resolution, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

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

The Issuer hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for such purposes and periods of time.

SPECIMEN

If at any time it so appears to the Government that the Issuer may be able to obtain a loan from a responsible cooperative or private creditor at reasonable rates and terms for loans for such purposes and period of time, the Issuer will at the Government's request apply for and accept such loan in sufficient amount to repay the Government.

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.

This Bond is given as evidence of a loan to the Issuer made or insured by the Government pursuant to the Rural Development Act of 1972. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

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 and interest on this Bond.

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

IN WITNESS WHEREOF, LOGAN COUNTY PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

Chairperson SPECIMEN

[SEAL]

ATTEST:

Secretary SPECIMEN

(Form of)

RECORD OF ADVANCES

SPECIMEN

AMOUNT	DATE	AMOUNT	DATE
(1) $23,037.50	6/5/2015	(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

(Form of)

ASSIGNMENT

SPECIMEN

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, __.

_____

In the presence of:

_____

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$533,000	June 5, 2015

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

United States of America
National Finance Office
1520 Market Street
St. Louis, Missouri 63103

Signature of Registrar:

Ben F Jones Jr
Authorized Representative

WEST VIRGINIA
Water Development Authority
Celebrating 41 Years of Service 1974 - 2015

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

CONSENT TO ISSUANCE OF PARITY BONDS

In reliance upon a certificate of Griffith & Associates, PLLC, an independent certified public accountant, and the opinion of Jackson Kelly PLLC, bond counsel, stating that the coverage and parity requirements have been met (copies attached), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) (the "Series 2015 A Bonds"), in the original aggregate principal amount of $533,000, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Bonds, on a parity as to liens, pledge and source of and security for payment with the Issuer's (i) Water Revenue Bonds (Cow Creek Project), Series 1996 B; (ii) Water Revenue Bonds (Whitman Creek Project), Series 1997 A; (iii) Water Revenue Bonds (Harts Creek Project), Series 1997 B; (iv) Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development Council), Series 1998 A; (v) Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A; (vi) Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 C; (vii) Water Revenue Bonds (Enaloc Project-West Virginia Water Development Authority), Series 1999 D; (viii) Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority); (ix) Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund); (x) Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund); (xi) Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund); (xii) Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund); (xiii) Water Revenue Bonds (North Fork Project), Series 2008 A (West Virginia Infrastructure Fund); (xiv) Water Revenue Bonds (Holden Project), Series 2008 B (West Virginia Infrastructure Fund); (xv) Water Revenue Bonds (Upper Little Harts Creek Project), Series 2010 A (West Virginia Infrastructure Fund); (xvi) Water Revenue Bonds (Anchor Road Project), Series 2013 A (West Virginia Infrastructure Fund) and (xvii) Water Revenue Bonds (Big Harts Creek Phase I, Series 2014 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds").

1009 Bullitt Street, Charleston, WV 25301
Phone (304) 414-6500 / fax (304) 414-0865
www.wvwda.org

WITNESS my signature on this 5th day of June, 2015.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Sheila A. Miller

Authorized Representative

USDA

United States Department of Agriculture

Rural Development

West Virginia State Office

1550 Earl Core Road,
Suite 101
Morgantown, WV
26505

Voice 304.284.4860
1.800.295.8228
Fax 855.859.1835

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

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, Rural Utilities Service, the registered owner of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) (the "Series 2015 A Bonds"), in the original principal amount of $533,000, by Logan County Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2015 A Bonds (the "Resolution"), on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 2002 A (United States Department of Agriculture), dated January 24, 2002, issued in the original aggregate principal amount of $1,326,000, Water Revenue Bonds (Marsh Fork Project), Series 2012 A (United States Department of Agriculture), dated December 13, 2012, issued in the original aggregate principal amount of $600,000, and Water Revenue Bonds (Big Harts Creek Phase I), Series 2014 A (United States Department of Agriculture), dated July 24, 2014, issued in the original aggregate principal amount of $1,321,000 (the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the resolutions authorizing the Prior Bonds (collectively, the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Series 2015 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESS my signature on this 5th day of June, 2015.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT

Susan L Neuzomer

Acting State Director

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LOGAN COUNTY PUBLIC SERVICE DISTRICT 3.1
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

GENERAL CERTIFICATE ON:

1. TERMS AND AWARD OF BONDS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. RATES
7. INCUMBENCY AND OFFICIAL NAME
8. MEETINGS
9. INSURANCE
10. SPECIMEN BONDS
11. BOND PROCEEDS; GRANTS
12. LAND AND RIGHTS-OF-WAY
13. PUBLIC SERVICE COMMISSION ORDER
14. CONFLICTS OF INTEREST
15. USERS
16 PROCUREMENT OF ENGINEERING SERVICES
17. VERIFICATION OF SCHEDULE
18. WETLANDS COVENANT
19. COUNTERPARTS

On this 5th day of June, 2015, 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 Issuer's Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) (the "Series 2015 A Bonds") dated the date hereof, as follows:

1. TERMS AND AWARD OF BONDS: The entire issue of the Series 2015 A Bonds has been duly awarded to the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), pursuant to a Letter of Conditions dated April 15, 2013, and all amendments thereto (collectively, the "Letter of Conditions"). The Bonds are authorized to be issued pursuant to the Bond Resolution duly adopted by the Issuer on June 2, 2015, as supplemented by Supplemental Resolution duly adopted by the Issuer on June 2, 2015 (collectively, the "Resolution"). All capitalized words and terms used in this Certificate and not otherwise defined herein shall have the same meanings as set forth in the Resolution.

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the 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 and necessary approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for 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 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. The Issuer has received the Drug Free Workplace affidavits from the successful bidders required by Chapter 21, Article 1D of the West Virginia Code of 1931, as amended.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval and acceptance of the Letter of Conditions by the Issuer or the execution and delivery of the Loan Agreement. The Issuer has met all conditions set forth in the Letter of Conditions and the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The 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) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Bonds on a parity with the Prior Bonds.

Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by the revenues or the assets of the System. The Issuer is in compliance with all of the covenants of the Prior Bonds and the Prior Resolution.

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 Series 2015 A Bonds to a representative of the Authority as the original purchaser of the Series 2015 A Bonds under the Loan Agreement; and the Chairperson did deliver the Series 2015 A Bonds to a representative of the Government as the original purchaser of the Series 2014 A Bonds.

6. RATES: The rates for the System, as approved by the PSC, are currently in effect. The time for appeal for such order has expired prior to the date hereof and such order remains in full force and effect.

7. 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 a public corporation duly created by The County Commission of Logan County and presently existing under the laws of, and a political subdivision of, the State of West Virginia. The Issuer operates the System in Boone, Logan, Lincoln, Mingo and Wyoming Counties of said State. The governing body of the Issuer is its Board, consisting of three duly appointed, qualified and acting members, whose names and dates of commencement and termination of their current terms are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
Ben F. Lowe, Jr.	January 2014	January 2020
Mike Stone	October 2013	October 2019
Leonard Hovis	January 2014	January 2020

The duly elected or appointed officers of the Board for 2014 are as follows:

Ben F. Lowe, Jr.	-	Chairperson
Mike Stone	-	Secretary
Leonard Hovis	-	Treasurer

The duly appointed and acting attorney for the Issuer is Brian R. Abraham, Esquire, of Logan, West Virginia.

8. 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, the acquisition, construction and financing of the Project and the operation of the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes, including Chapter 6, Article 9A of the Code of West Virginia, 1931, as amended, and the rules of procedure of the Board, and a quorum of duly elected or 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.

9. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain workers' compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption

insurance, where applicable, in accordance with the Resolution, the Loan Agreement and the Letter of Conditions. All insurance for the System required by the Resolution, the Loan Agreement and the Letter of Conditions are in full force and effect.

10. SPECIMEN BONDS: Attached hereto as Exhibit A are specimens of the Bonds which, except as to execution, are identical in all respects with the Bonds this day delivered to the Government and the Authority and being substantially in the form prescribed in the Resolution.

The Issuer will serve the additional customers at the location(s) as set forth in the Certificate of the Engineer. The Issuer will not reduce the amount of additional customers served by the Project without the prior written approval of the Board of the Authority. Following completion of the Project, the Issuer will certify to the Authority the number of customers added to the System.

11. BOND PROCEEDS; GRANTS: On the date hereof, the Issuer received: the sum of $23,037.50 from the Government being a portion of the principal amount of the Series 2015 A Bonds. The balance of the principal amount of the Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses. As of the date hereof, the grant from the Government in the amount of $789,000, the grant from The County Commission of Lincoln County in the amount of $50,000, and the Small Cities Block Grant in the amount of $1,500,000 are committed for the Project and are in full force and effect.

12. 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 which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which 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.

13. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Recommended Decision of the Administrative Law Judge entered on December 1, 2014 as made final by the PSC on December 21, 2014 in Case No. 14-1434-PWD-CN, among other things, granting to the Issuer a certificate of public convenience and necessity for the Project and approving the financing for the Project. The time for appeal of the PSC orders has not expired prior to the date hereof. However, the Issuer hereby states that it will not appeal such orders and the other parties thereto have stated that they do not intend to appeal such orders. Such orders remain in full force and effect.

14. 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 in 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.

15. USERS: The Issuer will serve at least 10,189 bona fide users upon the completion of the Project, in full compliance with the Letter of Conditions.

16. 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.

17. VERIFICATION OF SCHEDULE: The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

18. WETLANDS COVENANT: The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

19. 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 the LOGAN COUNTY PUBLIC SERVICE DISTRICT, as of the date first written above.

[SEAL]

Signature	Official Title
_____	Chairperson
_____	Secretary
_____	Attorney

EXHIBIT A

Series 2015 A Specimen Bond (See Tab No. 13)

LOGAN COUNTY PUBLIC SERVICE DISTRICT 3.2
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 5th day of June, 2015, the undersigned duly appointed Secretary of Logan County Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Logan County Public Service District Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) 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. USDA Letter of Conditions.

8. USDA Closing Letter.

9. USDA Loan Resolution.

10. Minutes of Board Meeting regarding Adoption of USDA Loan Resolution.

11. Bond Resolution.

12. Supplemental Resolution.

13. Minutes of Board Meeting regarding Adoption of Bond Resolution and Supplemental Resolution.

14. Affidavit of Publication regarding Notice of Meeting to Adopt Bond Resolution and Supplemental Resolution.

15. WDA Consent to Issuance of Bonds.

16. USDA Consent to Issuance of Bonds.

17. Environmental Health Services Permit.

18. Small Cities Block Grant Letter.

19. Evidence of Lincoln County Commission Grant.

20. USDA Grant Agreement.

21. Evidence of Insurance.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

Secretary

LOGAN COUNTY PUBLIC SERVICE DISTRICT 3.3
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF CONSULTING ENGINEER

On this 5th day of June, 2015, I, Charles R. Roberts, Jr., Registered Professional Engineer, West Virginia License No. 10424, of E.L. Robinson Engineering Company, Charleston, West Virginia, hereby certify as follows:

1. E.L. Robinson Engineering Company, is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing public water facilities (the "System") of Logan County Public Service District (the "Issuer"), to be constructed primarily in Lincoln County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on June 2, 2015 and the Letter of Conditions dated April 15, 2013 (the "Letter of Conditions"), from the United States of America, United Stated Department of Agriculture, Rural Utilities Service (the "Government").

2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; and (ii) paying certain costs of issuance and related costs.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by E.L. Robinson Engineering Company and approved by the West Virginia Bureau of Public Health, and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and when constructed, in our professional opinion, has an anticipated useful life of at least 40 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A, and in reliance upon the opinion of Issuer's counsel, Brian R. Abraham, Esquire, of even date hereof, all successful bidders have made all 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 acknowledged receipt of all addenda to the original bid documents; (v) all contractors to be awarded contracts for the construction of the Project have submitted affidavits indicating such contractor has a drug free workplace plan pursuant to Chapter 21, Article 1D of the West Virginia Code of 1931, as amended; (vi) the bid documents relating to the Project reflect the Project as approved by the West Virginia Bureau for Public Health and the bid forms provided to the bidders contain the critical operational components of the Project; (vii) the successful bids include prices for every item on such bid forms; (viii) the uniform bid procedures were followed;

(ix) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System, including: (a) the order of the Public Service Commission of West Virginia entered on December 1, 2014, in Case No. 14-1434-PWD-CN (b) the West Virginia Office of Environmental Health Services Construction Permit, (c) the Corps of Engineers Nationwide Permit (404), (d) the West Virginia Department of Environmental Protection 401 Certification and General NPDES Permit, and (e) the West Virginia Department of Highways Permit; (x) in reliance upon the certificate of Michael D. Griffith, CPA, of even date herewith, as of the effective date thereof, the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (xi) the net proceeds of the Bonds, together with all moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, 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 Issuer; (xii) the Project was designed and will be constructed in compliance with the provisions of West Virginia Code Chapter 22, Article 29; and (xiii) 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.

4. The Project will serve 84 new customers in the Frances Creek area of Lincoln County.

WITNESS my signature and seal as of the date first written above.

[SEAL]

E.L. ROBINSON ENGINEERING COMPANY
Charles R. Roberts, Jr., P.E.
West Virginia License No. 10424

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

2011W-1282

FINAL SCHEDULE B

LOGAN COUNTY PUBLIC SERVICE DISTRICT

FRANCES CREEK WATERLINE EXTENSION PROJECT

FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS, AND COST OF FINANCING

June 5, 2015

A. Cost of Project	Total	Lincoln Co. Comm.	SCBG	USDA-RD Grant	USDA-RD Loan
1. Construction (Based on actual bids)					
a. Contract 1	$1,715,222.61	$50,000.00	$1,053,000.00	$248,202.61	$364,020.00
b. Contract 2	$223,480.00			$100,000.00	$123,480.00
2. Construction Contingency	$136,000.00			$136,000.00	$0.00
3. Engineering Fees					
a.Design Engineering	$145,000.00		$145,000.00		$0.00
b.Construction Engineering	$30,000.00		$30,000.00		$0.00
c. Special Engineering	$37,000.00		$37,000.00		$0.00
d. Inspection	$108,000.00		$108,000.00		$0.00
4. Legal					
a. Project Legal Services	$7,000.00		$7,000.00		$0.00
b. PSC Legal Services	$8,000.00		$8,000.00		$0.00
c. Property Acquisition Legal Services	$15,000.00		$15,000.00		$0.00
5. Administration	$50,000.00		$50,000.00		$0.00
6. Sites and Other Lands	$15,000.00		$15,000.00		$0.00
7. Permits	$7,000.00		$7,000.00		$0.00
8. Equipment/Meters	$222,797.39			$222,797.39	$0.00
9. Accountant	$25,000.00		$25,000.00		$0.00
10. Project Contingency	$40,000.00			$40,000.00	$0.00
11. Total Lines 1 Through 10	$2,784,500.00	$50,000.00	$1,500,000.00	$747,000.00	$487,500.00
B. Sources of Funds					
12. Lincoln County Commission	$50,000.00	$50,000.00			
13. Small Cities Block Grant	$1,500,000.00		$1,500,000.00		
14. USDA-RD Grant	$747,000.00			$747,000.00	
15. Net Proceeds Required from Bond Issue	$487,500.00				$487,500.00
(Line 11 minus Lines 12 thru 14)					
C. Cost of Financing					
16. Other Costs					
a. Bond Counsel	$20,000.00				$20,000.00
b. Accountant	$0.00				$0.00
c. Capitalized Interest	$25,000.00				$25,000.00
d. Registrar Fee	$500.00				$500.00
17. Total Cost of Financing	$45,500.00				$45,500.00
(Lines 18a Through 18d)					
18. Size of Bond Issue	$533,000.00				$533,000.00
(Line 15 Plus Line 17)					

GOVERNMENTAL AGENCY

DATE:

CONSULTING ENGINEER

DATE: 6/5/15

Griffith & Associates, PLLC Accountants & Consultants

June 5, 2015

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

Logan County Public Service District
Monaville, West Virginia

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the water rates of Logan County Public Service District (the "Issuer") and the projected operating expenses and anticipated customer usage provided by E.L. Robinson Engineering Company, the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the water facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Issuer's Water Revenue Bonds (Cow Creek Project), Series 1996 B; Water Revenue Bonds (Whitman Creek Project), Series 1997 A; Water Revenue Bonds (Harts Creek Project), Series 1997 B; Water Revenue Bonds (Elk Creek/Spice Creek/Verner Project - West Virginia Infrastructure and Jobs Development Council), Series 1998 A; Water Revenue Bonds (Mill Creek Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 A; Water Revenue Bonds (Crawley Creek/Chief Logan Project - West Virginia Infrastructure and Jobs Development Council), Series 1999 C; Water Revenue Bonds (Enaloc Project - West Virginia Water Development Authority), Series 1999 D; Water Revenue Bonds, Series 2001 A (West Virginia Water Development Authority); Water Revenue Bonds, Series 2001 B (West Virginia Infrastructure Fund); Water Revenue Bonds, Series 2002 A (United States Department of Agriculture); Water Revenue Bonds, Series 2002 B (West Virginia Infrastructure Fund); Water Revenue Bonds, Series 2003 B (West Virginia Infrastructure Fund); Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund); Water Revenue Bonds (North Fork Project), Series 2008 A (West Virginia Infrastructure Fund); Water Revenue Bonds (Holden Project), Series 2008 B (West Virginia Infrastructure Fund); Water Revenue Bonds (Upper Little Harts Creek Project), Series 2010 A (West Virginia Infrastructure Fund); Water Revenue Bonds (Marsh Fork Project), Series 2012 A (United States Department of Agriculture); Water Revenue Bonds (Anchor Road Project) Series 2013 A (West Virginia Infrastructure Fund); Water Revenue Bonds (Big Harts Creek Project-

Michael D. Griffith, CPA, AFI *950 Little Coal River Road Alum Creek, WV 25003*
mgriffith@gcorpwv.com *Phone: (304) 756.3600 Facsimile: (304) 756.2911*

Phase 1), Series 2014 A (United States Department of Agriculture); and Water Revenue Bonds (Big Harts Creek Project-Phase 1), Series 2014 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds") and the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) (the "Series 2015 A Bonds").

It is further my opinion that (i) the Net Revenues for the fiscal year following the year in which the Series 2015 A Bonds are to be issued will be at least 120% of the average annual debt service requirements on the Prior Bonds, and the Series 2015 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 2015 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 2015 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 2015 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, AFI
Griffith & Associates, PLLC

MDG/dk

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

CERTIFICATE OF NO LITIGATION

On this 5th day of June, 2015, the undersigned hereby certifies that as of the date hereof, no controversy or litigation of any nature is now pending or threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale or delivery of the above-captioned Bonds (the "Bonds"), the acquisition and construction of the Project, the operation of the System, the receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of Logan County Public Service District (the "Issuer") taken with respect to the authorization, issuance, sale or delivery of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the Issuer insofar as they relate to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection of the Gross Revenues or the pledge of the Net Revenues for payment of the Bonds.

All capitalized terms used herein shall have the same meaning set forth in the Bond Resolution, authorizing the Bonds, duly adopted by the Issuer on June 2, 2015.

WITNESS my signature as of the date first written above.

Brian R. Abraham, Esquire
Attorney for Logan County Public Service District

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BONDS

On this 5th day of June, 2015, the undersigned authorized representative of the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), for and on behalf of the Government, hereby certifies as follows:

1. On the date hereof, the undersigned received for and on behalf of the Government, the Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) (the "Bonds"), of Logan County Public Service District (the "Issuer"), dated June 5, 2015, issued in the form of one bond in the principal amount of $533,000 and numbered AR-1. The Bonds bear interest at the rate of 2.125% per annum, payable in monthly installments on the amounts advanced thereunder, commencing 30 days following the date of delivery of the Bonds and continuing on the corresponding day of each month for the first 24 months after the date of the Bonds, and thereafter, on the corresponding day of each month in installments of principal and interest on the Bonds in the aggregate amount of $1,706.00, except that the final installment on the Bonds shall be paid at the end of 38 years from the date of the Bonds in the sum of the unpaid principal and interest due on the date thereof.

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.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL UTILITIES SERVICE

Authorized Representative

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

RECEIPT FOR BOND PROCEEDS

On this 5th day of June, 2015, the undersigned Chairperson of Logan County Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies that the Issuer has received on the date hereof from the United States of America, United States Department of Agriculture, Rural Utilities Service (the "Government"), the sum of $23,037.50 being the first advance on Issuer's Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture) (the "Bonds"), being more than a de minimus amount of the purchase price of the Bonds. The Issuer understands that the remaining proceeds of the Bonds will be advanced to the Issuer by the Government from time to time as construction progresses.

WITNESS my signature as of the date first written above.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

Ben F Rowe Jr
Chairperson

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (FRANCES CREEK PROJECT)
SERIES 2015 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

On this 5th day of June, 2015, Logan Bank & Trust, Logan, West Virginia, hereby accepts appointment as Depository Bank in connection with a Bond Resolution adopted by Logan County Public Service District (the "Issuer") on June 2, 2015 and a Supplemental Resolution adopted on June 2, 2015 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Water Revenue Bonds (Frances Creek Project) Series 2015 A (United States Department of Agriculture), in the principal amount of $533,000, dated June 5, 2015, and agrees to serve as Depository Bank, all as set forth in the Resolution.

WITNESS my signature as of the date first written above.

LOGAN BANK & TRUST COMPANY

Authorized Officer

WEST VIRGINIA MUNICIPAL BOND COMMISSION
NEW ISSUE REPORT FORM
900 Pennsylvania Avenue, Suite 1117, Charleston, WV 25302 Date of Report: June 5, 2015
(304) 558-3971

ISSUE: Logan County Public Service District Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture)

ADDRESS: P.O. Box 506, Logan, WV 25601 COUNTY: Logan
PURPOSE OF ISSUE: New Money X Refunding _____ Refunds issue(s) dated: _____

ISSUE DATE: June 5, 2015 CLOSING DATE: June 5, 2015

ISSUE AMOUNT: $533,000 RATE: 2.125%

1st DEBT SERVICE DUE: N/A 1st PRINCIPAL DUE: N/A

1st DEBT SERVICE AMOUNT: $ N/A PAYING AGENT: None (District pays USDA directly)

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: _____
Contact Person: _____
Phone: _____

CLOSING BANK: Logan Bank & Trust
Contact Person: Bart Willis
Phone: (304) 752-1166

ESCROW TRUSTEE: _____
Contact Person: _____
Phone: _____

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: William Baisden
Position: General Manager
Phone: (304) 946-2641
E-Mail: wb@lcpsd.com

OTHER: USDA, Rural Utilities Service
Contact Person: Tracey Rowan
Function: Area IV Director
Phone: (304) 776-5298 ext. 116

DEPOSITS TO MBC AT CLOSE: _____
By _____ Wire _____
_____ Check _____

Accrued Interest: $_____
Capitalized Interest: $_____
Reserve Account: $_____
Other: _____ $_____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By _____ Wire _____
_____ Check _____
_____ IGT _____

To Escrow Trustee: $_____
To Issuer: $_____
To Cons. Invest. Fund $_____
To Other: _____ $_____

NOTES: **Series 2015 A Bonds Reserve Account only set up with MBC. Debt service payments will be made directly by District to USDA.**

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: _____
Transfers Required: _____

LCPSD - FRANCES CREEK

PERMIT SUMMARY/STATUS

Permit Agency	Date Submitted	Date Received	Permit No.
WV Bureau for Public Health	April 22, 2014	May 16, 2014	19,429
WV Division of Highways	April 17, 2014	September 3, 2014	2-2014-0133
WV Public Land Corporation	April 2, 2014	April 9, 2014	P-14-V/22-498
WV DEP (Stormwater)	June 17, 2014	October 22, 2014	WVR107097
WV Culture & History	February 9, 2012	March 13, 2012	11-587-LC-1
WV Public Service Commission	August 11, 2014	December 21, 2014	14-1434-PWD-CN
US Army Corps of Engineers	April 2, 2014	April 28, 2014	LRH-2014-308-OHR

PWSID No.: WV3302364

State of West Virginia

OFFICE OF ENVIRONMENTAL HEALTH SERVICES

350 CAPITOL STREET, ROOM 313 CHARLESTON, WEST VIRGINIA 25301-3713

TELEPHONE 304-558-2981

PERMIT

(Water)

PROJECT: Frances Creek Water Extension PERMIT NO.: 19,429

LOCATION: Southern Lincoln County COUNTY: Lincoln DATE: 5-16-2014

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

Logan County PSD
P. O. Box 506
Logan, West Virginia 25601

is hereby granted approval to: install approximately 260 LF of 8", 36,140 LF of 6" and 4,950 LF of 2" water line; one (1) Solenoid Valve Station; one (1) 53,000 gallon water storage tank with dynamic mixing; and all necessary valves and appurtenances.

Facilities are to serve 84 customers along Frances Creek and Kiah Creek in southern Lincoln County.

NOTE: This permit is contingent upon: 1) All new water line and storage tank being disinfected, flushed and bacteriologically tested, prior to use; and 2) Enclosing the storage tank with a minimum six (6) feet high fence with lockable gates.

The Environmental Engineering Division of the **St. Albans District Office, (304) 722-0611,** is to be notified when construction begins.

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health.

FOR THE DIRECTOR,

William S. Herold, Jr., P.E.
Assistant Director
Environmental Engineering Division

WSH:srs

pc: E. L. Robinson Engineering Co.
Jim Weimer, PE, PSC
Logan County Health Department
OEHS-EED St. Albans District Office

EW-100

06/2010

Office Use Only

Date Received 4-29-14

Date Approved 5-16-14

Approved by WW

Permit Number 19429

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Bureau for Public Health
Office of Environmental Health Services
350 Capitol Street, Room 313
Charleston, WV 25301-3713
Phone: 304-558-2981 Fax: 304-558-0691

PUBLIC WATER SUPPLY SYSTEM APPLICATION
FOR A PERMIT TO CONSTRUCT, ALTER, OR RENOVATE
(Please Prepare in 4 Copies)

APPLICANT: Logan County Public Service District

STREET OR PO BOX: P.O. Box 506

CITY: Logan STATE: WV ZIP: 25601

TELEPHONE: (304) 946-2641 E-MAIL: wb@lcpsd.com

ENGINEERING FIRM: E.L. Robinson Engineering Co.

STREET OR PO BOX 5088 Washington St, W TELEPHONE: (304)776-7473

CITY: Charleston STATE: WV ZIP: 25313

TELEPHONE: (304) 776-7473 E-MAIL: rroberts@elrobinson.com

IN ACCORDANCE WITH TITLE 64, SERIES 3, PUBLIC WATER SUPPLY REGULATIONS OF THE WEST VIRGINIA DIVISION OF HEALTH, WE HEREBY MAKE APPLICATION TO CONSTRUCT, ALTER, OR RENOVATE AS FOLLOWS:

Extend water system to provide service to approximately 84 new customers.

Signature of Applicant or Authorized Agent

4/22/14
Date

NOTE: A $300 application fee must accompany a permit application ($150 application fee for a water well permit application). Make check or money order payable to *"West Virginia Department of Health and Human Resources"*. Cash not accepted. Permit applications which include both water and sewer systems require only a single $300 fee.

EG-5
06/2010

WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Bureau for Public Health
Office of Environmental Health Services
Environmental Engineering Division
350 Capitol Street, Room 313
Charleston, WV 25301-3713
Phone: 304-558-2981 Fax: 304-558-0691

WATER SYSTEM DESIGN INFORMATION AND DATA SHEET

Complete all portions of the Design Data Sheet applicable to the project. Omission of required information will result in the application being denied. When both sewer system and water system are to be constructed, Design Data Sheets for both sewage and water must be completed and attached to the application.

Applicant: Logan County Public Service District

Project Location: County Routes 68/1, 72/1, 72/3, 21/1, 21/2

County: Lincoln

Number of customers: 84 or Estimated population or population equivalent served: _____

Number of home sites: 84 Number of mobile home sites: _____

Estimated peak flow: 100 gpm

Minimum consumer pressure (static/residual): 66 / 34 psi

Source of Supply: Logan County Public Service District
(name of utility)

Municipal _____ Public Service District ✓ Private Well _____

Other _____
(specify)

Pressure at connection to public supply (static/residual): 130 / 130 psi

Capacity of well, if applicable _____ gpm

Type of system Gravity ✓ Hydropneumatic _____

Other _____
(specify)

Length of water lines of each size: 260 LF 8"; 36,140 LF 6"; 4,950 LF 2"

YES	NO	
	✓	Details of well construction attached
✓		Fire hydrants to be installed (hydraulic calculations must be included)
✓		Storage tank required — Size of tank 53,000 gallons
		Elevation of top and bottom of storage tank 1138.84 / 1115.00
	✓	Booster station required — Size of station _____ gpm
	✓	Pressure reducing station required
	✓	Details of water treatment equipment (if applicable)
	✓	Chlorination — Contact time _____ minutes

Form MM-109
Rev. 05-19-05

PERMIT NO. 2-2014-0133

PERMIT TO ENTER UPON, UNDER, OVER OR ACROSS THE STATE ROADS OF THE STATE OF WEST VIRGINIA, AS PROVIDED FOR IN SECTION 6, ARTICLE 16, CHAPTER 17; SECTION 9, ARTICLE 16, CHAPTER 17; SECTION 8, ARTICLE 4, CHAPTER 17, WEST VIRGINIA CODE, 1931, AS AMENDED.

THIS PERMIT, Made this 19 day of November 20 14, between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a statutory corporation hereinafter called DIVISION and Logan County Public Service District

Address: P.O. Box 506 Logan, WV 25601 Phone No: (304) 946-2641

hereinafter called APPLICANT.

WITNESSETH

In consideration of the hereinafter set out covenants and in accordance with Section 6, Article 16, Chapter 17; or Section 9, Article 16, Chapter 17; or Section 8, Article 4, Chapter 17, of the Official Code of West Virginia, 1931, as amended, and the rules and regulations promulgated thereunder, APPLICANT does hereby apply to enter

Route Type & No. See Attached Listing DOH Project No. N/A (if applicable);

at Lincoln, WV Mile Post N/A

in Lincoln County, for the purposes hereinafter set forth and in accordance with the plans and specifications which are attached hereto and made a part hereof: Construction of approximately 36,527 feet of water line and appurtenances on WVDOT ROW for Frances Creek Waterline Extension Project

APPLICANT further agrees to accept the conditions hereinafter set forth:

1. APPLICANT shall deposit with DIVISION the sum of $ _____ in the form of an official, certified or cashier's check, or executed bond with surety satisfactory to DIVISION to cover any damage and inspection costs DIVISION may sustain by reason of the granting of this permit, including any expense incurred in restoring said highway to its original condition or the proper repair of any and all damages that may result within one (1) year from the date of the completion of said work.

2. APPLICANT agrees to reimburse DIVISION for inspection costs as follows:
   - ☐ A. For any inspection costs incurred under this permit.
   - ■ B. At $ 0.43 per linear foot for 36,527 feet of water line installed under this permit
   - ☐ C. At $ _____ per linear foot for _____ feet of sewer line installed under this permit

3. APPLICANT shall notify DIVISION at least 48 hours in advance of the date the work will begin. Failure to comply will be cause for cancellation of this permit.

4. APPLICANT agrees to protect its employees, equipment and users of the highway at all times in accordance with the current Division of Highways manual "Traffic Control For Street and Highway Construction and Maintenance Operations".

5. APPLICANT agrees to comply with all applicable state and federal laws in the performance of work under this permit.

6. Supplementary conditions cited on the reverse side of this permit are understood and agreed to be a part hereof.

7. The work authorized under this permit shall be completed on or before (Date): 03/19/2016

Applicant's signature on this permit affirms that all text herein is a verbatim reproduction of The West Virginia Division of Highways Encroachment Permit Form MM-109, revision date May 19, 2005. All attachments are inclusive to this permit.

RECOMMENDED:

UTILITY SUPERVISOR

Title

General Manager

Signature and Title of Applicant

BOND REQUIREMENT:

BOND NO. _____ DATE _____

Attached ☐ On File ☐

INSPECTION: Owner/Consultant ☐

Full Time ■ Part Time ☐

Periodic ☐ Reimbursable ■ No Cost ☐

AUTHORIZATION NO: _____

APPROVED:

ASSISTANT DISTRICT ENGINEER-CONSTRUCTION

Title

West Virginia Division of Highways

PERMIT NO: 2-2014-0133

CHAPTER 17 WEST VIRGINIA CODE, 1931

§17-4-8. Use of roadbed by railroad, telephone company, etc.
No railroad or electric or other railway shall be constructed upon the roadbed of any state road, except to cross the same, nor shall any person, firm or corporation enter upon or construct any works in or upon such road, or lay or maintain thereon or thereunder any drainage, sewer or water pipes, gas pipes, electric conduits or other pipes, nor shall any telephone, telegraph or electric line or power pole, or any other structure whatsoever, be erected upon, in or over any portion of a state road, except under such restrictions, conditions and regulations as may be prescribed by the state road commissioner. Whenever any railroad or electric or other railway, heretofore or hereafter constructed, shall cross any state road, it shall be required to keep its own roadbed, and the bed of the road or highway at such crossing, in proper repair, or else to construct and maintain an overhead or undergrade crossing, subject to the approval of the state road commissioner; and the tracks of such railroad or railway at grade crossings shall be so constructed as to give a safe and easy approach to and across the same, and when the construction of such approaches is made necessary by a change in the railroad grade at the grade crossing, the cost shall be upon the railway company.

§17-16-6. Permit by commission or county court for openings in or structures on public roads; franchises and easements of oil, etc., transportation companies.
No opening shall be made in any state or county-district road or highway, nor shall any structure be placed therein or thereover, nor shall any structure, which has been so placed, be changed or removed, except in accordance with a permit from the state road commission or county court, as the case may be. No road or highway shall be dug up for laying or placing pipes, sewers, poles or wires, or for other purposes, and no trees shall be planted or removed or obstructions placed thereon, without the written permit of the commission or county court, or its duly authorized agent, and then only in accordance with the regulations of the commission or court. The work shall be done under the supervision and to the satisfaction of the commission or court; and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given, or by whom the work was done: **Provided, however,** That nothing herein contained shall be so construed as to prevent any oil or gas company or person having a proper permit or franchise from transporting oil or gasoline along any of the public highways of this State, nor to give such company a franchise without paying to the landowners through whose lands such road passes the usual and customary compensation paid or to be paid to the landowners for such right of way. Any grant or franchise when made shall be construed to give to such company or person only the right to use the easement in such public road.

A violation of any provision of this section shall be a misdemeanor, and the person or corporation violating the same shall, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars for each offense.

§17-16-9. Private driveways or approaches to roads; obstruction of ditches.
The owner or tenant of land fronting on any state road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the state road commission, and, likewise, the owner or tenant of land fronting on any county-district road shall construct and keep in repair approaches or driveways to and from the same, under the direction of the county road engineer, and it shall be unlawful for such owner or tenant to fill up any ditch, or place any material of any kind or character in any ditch, so as in any manner to obstruct or interfere with the purposes for which it was made.

SUPPLEMENTARY CONDITIONS

1. The person, firm or corporation to whom a permit is issued agrees to hold the State of West Virginia and DIVISION harmless on account of any damages to persons or property which may arise during the process of the work authorized by this permit or by reason thereof.
2. Applications for permission to perform work within highway rights of way shall be made on DIVISION'S standard permit form and shall be signed by the authorized representative of the person, firm or corporation applying.
3. The APPLICANT shall give detailed information concerning the work to be performed and the application must include a sketch sufficient to show the nature of the work performed.
4. APPLICANT, his agents, successor, heirs or assigns, contractors or any other person, firm or corporation working under APPLICANT'S real or apparent authority, shall perform the work in a manner satisfactory to DIVISION. Damage to the road resulting at any time from work authorized under this permit shall be repaired by APPLICANT. Unsatisfactory repairs may be a corrected by DIVISION or its authorized agent and the cost thereof paid by APPLICANT.
5. DIVISION assumes no liability for damage to the proposed work by reason of construction or maintenance work on the road.
6. This permit is granted subject to removal of the authorized installation by APPLICANT at no cost to DIVISION when required for improvement of the road, and subject to all regulations now or hereafter adopted by DIVISION.
7. Utility installation shall be in accordance with the current manual, "Accommodation of Utilities on Highway Right of Way".
8. Driveways shall be in accordance with the current manual, "Rules and Regulations for Constructing Driveways on State Highway Rights-of-Way."
9. DIVISION reserves the right to cancel this permit at any time, should APPLICANT fail to comply with the terms and conditions under which it is granted.
10. This permit is granted only insofar as the DIVISION has a right to do so.

E.L. ROBINSON
ENGINEERING

T: 304.776.7473
F: 304.776.6426

5088 Washington St. West
Charleston, WV 25313

elrobinsonengineering.com

April 17, 2014

Mr. Greg Surber
WV Division of Highways
District Two
801 Madison Avenue
Huntington, WV 25712

Re: Logan County Public Service District
Frances Creek Waterline Extension Project

Dear Mr. Surber:

On behalf of the Logan County Public Service District we are requesting a permit to enter upon WV Division of Highways right-of-way with the construction of approximately 36,459 feet 8-inch and smaller diameter waterline on WV Department of Highways right-of-way to provide service to the Frances Creek Area. In support of our request, we are enclosing six (6) copies each of the following:

1. Permit Form MM-109
2. Project Plans
3. Project Specifications
4. Location Map
5. Waterline Summary

If you have any questions or need any additional information, please feel free to contact me at (304) 776-7473.

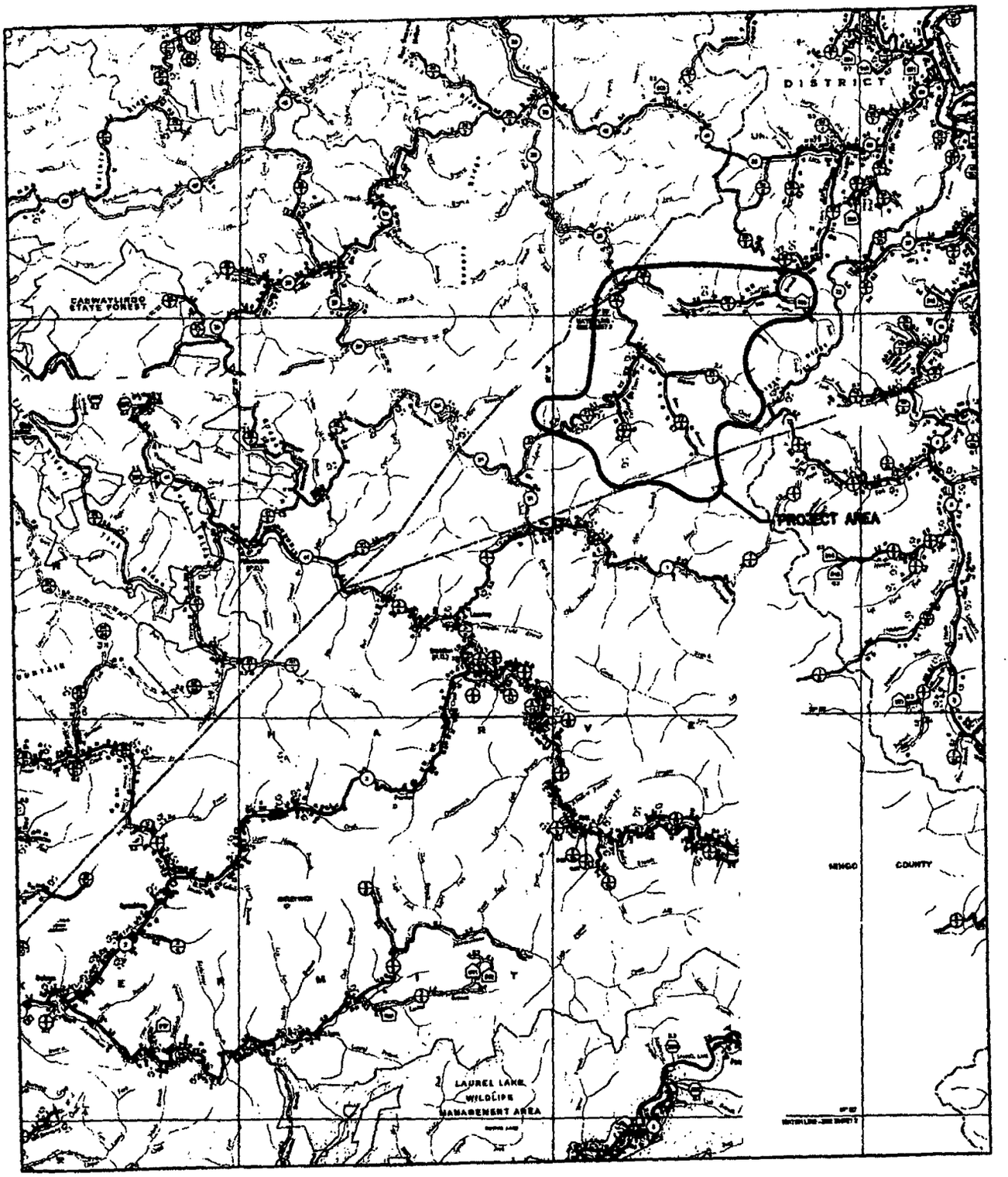
Sincerely,

Rick Roberts, P.E.
Project Manager
E. L. Robinson Engineering Co.

9/10/14

BOND!!

BEFORE WORK.



PROJECT MAP

(SCALE: 1" = 1 mile)

FRANCES CREEK
WATERLINE EXTENSION PROJECT
LOGAN COUNTY
PUBLIC SERVICE DISTRICT

Frances Creek Waterline Extension Project WVDOH Permit Quantities

Street	Route	Line Size				
		8" HDPE	6" DIP	2" PVC	1" HDPE	Service Line
Co Hwy 68/1	68/1		10,089		50	230
Kiah Creek Road	33		135	805		80
Co Hwy 72/1	72/1	68	11,087	37		495
Co Hwy 21/1	21/1	27	6,689			295
Paulsen Road	21/2		750	597		65
Jim's Branch Road	72/3		4,735	193		100
	Total	95	33,485	1,632	50	1,265
					Grand Total	36,527

Plan	Street	Routes	Line Size				
			8" HDPE	6" DIP	2" PVC	1" HDPE	Service Line
1	Co Hwy 68/1	68/1		1,183			
2	Co Hwy 68/1	68/1		2,995		30	60
3	Co Hwy 68/1	68/1		2,744			30
4	Co Hwy 68/1	68/1		2,192		20	140
5	Co Hwy 68/1	68/1		975			
	Kiah Creek Road	33		135	805		80
	Co Hwy 72/1	72/1		2,779	37		40
6	Co Hwy 72/1	72/1		3,782			360
7	Co Hwy 72/1	72/1	68	1,044			35
	Co Hwy 21/1	21/1	27	2,341			105
8	-						
9	Co Hwy 21/1	21/1		4,348			190
	Paulsen Road	21/2		750	118		25
10	-						
11	Paulsen Road	21/2			479		40
12	Co Hwy 72/1	72/1		3,077			40
	Jim's Branch Road	72/3		597			20
13	Jim's Branch Road	72/3		3,209			55
14	Jim's Branch Road	72/3		929	193		25
15	Co Hwy 72/1	72/1		405			20

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

Office of the District Engineer/Manager
District Two

Earl Ray Tomblin
Governor

P. O. Box 880 · Huntington, West Virginia 25712-0880 · (304) 528-5625

Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

November 24, 2014

Logan County PSD
P.O. Box 506
Logan WV 25601

Gentlemen:

Permit Number: 02-2014-0133
Description: construction of approximately 36,527' of water line and appurtenances on WV DOT ROW for Frances creek waterline extension project.

Enclosed is an approved copy of the referenced permit. This approved permit is to be available at the project site at all times.

Notify Mr. Gregory L. Surber at 304-528-5830 or Gregory.L.Surber@wv.gov prior to the commencement of any work to arrange for inspection of the installation. All work must meet West Virginia Division of Highways (WVDOH) specifications.

At the conclusion of all work, a final inspection is required by the WVDOH. Please complete and return the enclosed form to initiate the final inspection phase. The completion and returning of this form in no way relieves the contractor of any responsibilities, as stated in the referenced permit.

If you have any questions, please contact the District Two Utility Section at 304-528-5828.

Very truly yours,

James C. Collins, P.E.
Assistant District Engineer

By:

Gregory L. Surber
Acting District Utility Supervisor

JCC:Sas

Enclosures

cc: File

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways
Office of the District Engineer/Manager
District Two
P. O. Box 880 · Huntington, West Virginia 25712-0880 · (304) 528-5625

November 24, 2014

West Virginia Division of Highways
801 Madison Avenue
Huntington, WV 25704

Attention: **Greg Surber**
District Utility Supervisor

Sir:

Please be advised that work authorized by the listed Permit has been completed.

Applicant: **Logan County Public Service District**
Permit Number: **2-2014-0133**

Signature: _____

Date Completed: _____

DIVISION OF NATURAL RESOURCES
324 Fourth Avenue, Room 200
South Charleston WV 25303-1228
TDD (304) 558-1439
TDD 1-800-354-6087
Fax (304) 558-6048
Telephone (304) 558-3225

Earl Ray Tomblin
Governor

Frank Jezioro
Director

April 9, 2014

Division of Natural Resources
LICENSE AND RIGHT OF ENTRY

Re: P-14-V/22-498

Logan Public Service District
c/o E.L. Robinson Engineering
Attention: Rick Roberts
5088 Washington Street West
Charleston, WV 25313-

Dear Sir or Madam:

The Division of Natural Resources hereby grants to you for a term of 25 years, from the date hereof, a License and Right of Entry to construct, replace, cover, repair, operate, maintain, use and remove a two inch (2") PVC waterline at five (5) separate locations and a six inch (6") DIP waterline at seventeen (17) separate locations (Logan County PSD-Frances Creek Waterline Extension Project) along Frances Creek, unnamed tributaries of Frances Creek, Kiah Creek, Trace Branch, and Copley Branch, Harts District, Lincoln County, West Virginia, as shown located and highlighted in red on the map attached hereto as Exhibit A.

This License and Right of Entry is subject to the following terms and conditions:

High Quality Streams (HQS) as listed in the West Virginia Division of Natural Resources High Quality Stream Sixth Edition published in 2001 and for any trout streams and direct tributaries of trout streams:

- Directional boring is the only method permitted during the fish spawning season. Fish spawning season for warmwater streams runs from April 1st through June 30th. Trout spawning season runs from October 1st through April 30th.
- Other dry ditch methods (pump around, flume or cofferdam) as described in WVDEP water resources manual (published 2006) on page 3.21-4 may be used outside of spawning seasons.
- Each crossing that utilizes dry ditch methods must be completed in 2 consecutive work days.

Non-high quality stream:

- Directional boring or other dry ditch methods (pump around, flume or cofferdam) as described in WVDEP water resources manual (published 2006) on page 3.21-4 may be used at all times during fish spawning season from April 1st through June 30th. This eliminates the need for spawning season restrictions.

- Crossings using methods other than directional boring. Must be completed in 1 work day.
- Only ephemeral/intermittent streams that are dry can be trenched.

Bank Stabilization

All bank stabilization projects must begin immediately upon completion of utility line crossing and be completed within 24 hours of completion of utility line crossing.

Freshwater Mussels

Mussel surveys on streams with known US Fish and Wildlife listed or candidate endangered species will be required if directional boring is not an option. Contact Janet Clayton of the WVDNR Wildlife Diversity Program for information concerning mussels at 304-637-0245.

For further assistance, contact the appropriate WVDNR District Fisheries Biologist.
District 1 304-825-6787 District 2 304-822-3551 District 3 304-924-6211
District 4 304-256-6947 District 5 304-675-0871 District 6 304-420-4550

The issuance of this License and Right of Entry by the Division of Natural Resources does not preclude the necessity to obtain a permit from the Corps of Engineers or any other state or federal permits which may be required by law, nor does this License and Right of Entry negate the need to comply with the West Virginia Water Pollution Control Act and/or the State Environmental Quality Board's administrative regulations, applicant is also responsible for determining if the proposed activity is located within an identified flood plain and it is the applicant's responsibility for contacting the local governmental agency in charge of that program and obtaining a flood plain development permit for it. This License and Right of Entry does not grant any rights or privileges, or permission to enter upon or to cross the property of any other person, nor is permission granted to remove any material that lies upon the property of any other persons. Work should be completed in as brief a period as possible and within one year from the date of this letter. In the event you fail or refuse to comply with any of the terms or conditions herein, this License and Right of Entry will be canceled and considered null and void and the Division will reject further applications.

There is no fee for this Right of Entry.

Sincerely,

Joe T. Scarberry, Supervisor
Office of Land and Streams

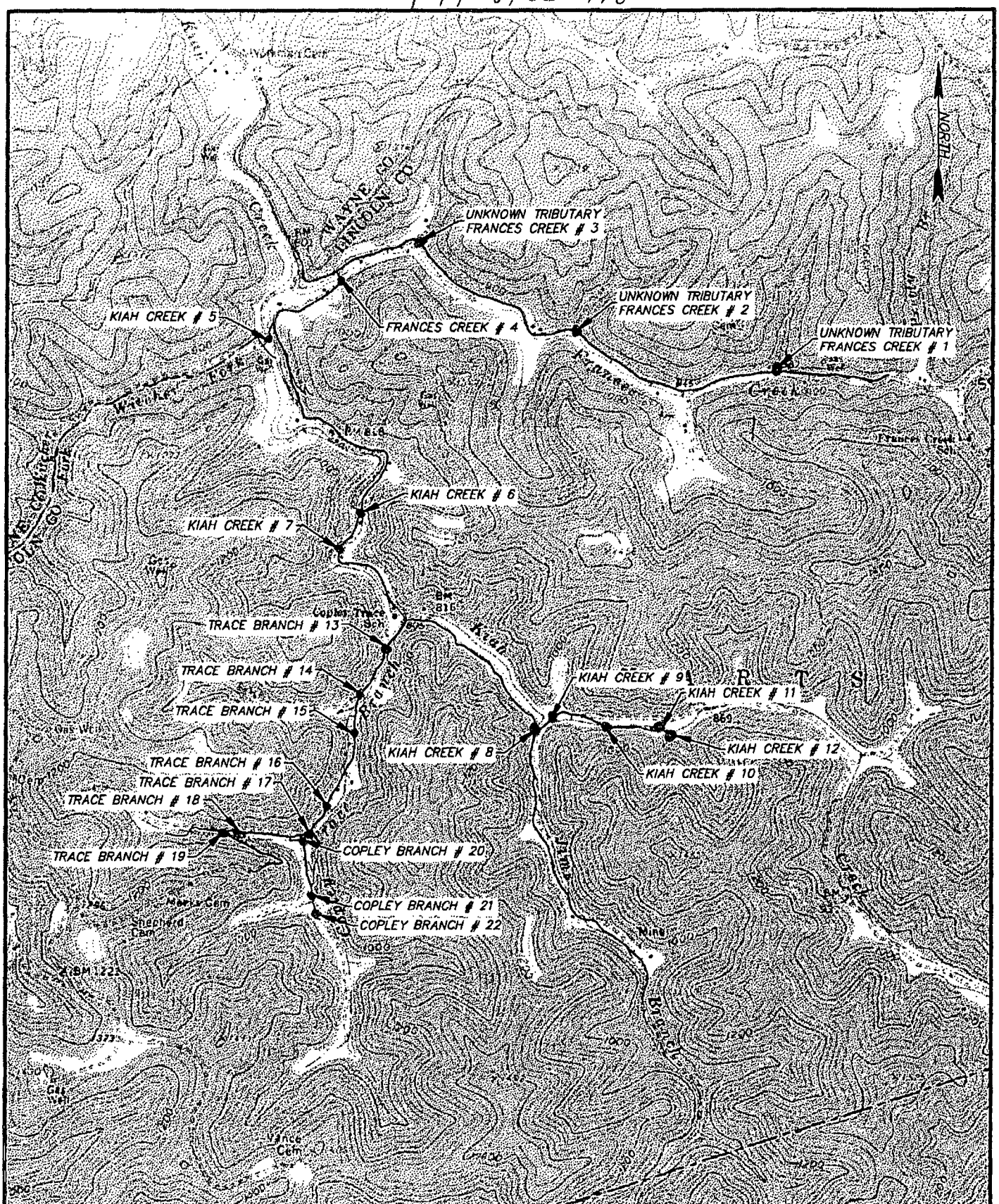
JTS:cb

attachment

pc: DNR Fish Biologist
Mr. Mike Zeto, Environmental Enforcement
DNR Conservation Officers

Exhibit A

P-14-V/22-498



E.L. ROBINSON ENGINEERING

5088 Washington Street, West
Charleston, West Virginia 25313
Phone: 304-776-7473
Fax: 304-776-8426
www.elrobinsonengineering.com

LOGAN COUNTY PUBLIC SERVICE DISTRICT

FRANCES CREEK WATERLINE
EXTENSION PROJECT
LINCOLN COUNTY, WV

STREAM CROSSINGS

GRAPHIC SCALE
(UNLESS OTHERWISE NOTED)

2000' 0' 2000' 4000'

Rick Roberts, P.E.

From: Chris LeRose P.E.
Sent: Thursday, October 23, 2014 10:08 AM
To: Rick Roberts, P.E.
Subject: FW: eP Approval for WVR107097 for Logan County PSD - Frances Creek (Logan Cnty PSD) in Logan County - 5.02 Acres

Chris LeRose, PE
E. L. Robinson Engineering
Project Engineer – Charleston
5088 Washington St. West
Charleston, WV 25313
P: 304.776.7473
C: 304.552.6898
www.elrobinsonengineering.com

From: DEP NPDESEP [mailto:DEP.NPDESEP@wv.gov]
Sent: Wednesday, October 22, 2014 9:02 PM
To: DEP NPDESEP; wb@lcpsd.com
Cc: Musser, Cynthia J; Howard, Nicole L; Napier, Carolyn J; Collier, Matthew B; Hardman, Natalie H; Chris LeRose P.E.
Subject: eP Approval for WVR107097 for Logan County PSD - Frances Creek (Logan Cnty PSD) in Logan County - 5.02 Acres

William Baisden, Gen. Mgr
Logan Cnty PSD
PO Box 506
Logan, WV 25601
(304) 946 -2641

Physical Site Location: Start out going northwest on Frances Crk/County Hwy-72/1 toward Board Tree Rd. Continue to follow Frances Creek for 5.7 miles. Turn right onto Little Harts Crk/County Hwy-68 for 2.2 miles. Turn right onto McClellan Hwy/WV-10. Continue to follow WV-10 for 12.3 miles until you arrive in Chapmanville.

Please be advised that this e-mail constitutes approval for your construction activity and your registration no. is **WVR107097**. You are now authorized to operate under WV/NPDES General Water Pollution Control Permit No. WV0115924, issued on December 5, 2012.

You should carefully read the contents of this General Permit and become familiar with all requirements needed to remain in compliance with your permit. A "Notice of Termination" form must be completed and submitted when all disturbed areas are stabilized. You can also find the permit and Notice of Termination form via the Internet by visiting Permitting, Division of Water and Waste Management at www.dep.wv.gov . Your annual permit fee has been assessed as $250.00. You will be invoiced by this agency one(1) month prior to the anniversary date of this approval date. Failure to submit the annual fee within ninety (90) days of the due date

will render your permit void upon the date you are mailed a certified written notice to that effect. Please be advised that a pro-rated annual permit fee may be assessed upon the completion date and proper stabilization.

If you have any questions relative to this approval, please do not hesitate to contact **Natalie Hardman** at (304) 465-1911 Ext. **3139** or by email at **natalie.h.hardman@wv.gov** .

Scott G. Mandirola
Director
WV DEP-Division of Water & Waste Mgt.
601 57th St SE
Charleston, WV 25304-2345
Phone: (304) 926-0495
Fax: (304) 926-0463

WEST VIRGINIA
Division of Culture and History

The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300
Randall Reid-Smith, Commissioner
Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

March 13, 2012

Mr. Rick Roberts
Project Manager
E. L. Robinson Engineering Company
5088 Washington Street, West
Charleston, WV 25313

RE: Logan County Public Service District
Frances Creek Waterline Extension, Lincoln County, West Virginia
FR#: 11-587-LC-1

Dear Mr. Roberts:

We have reviewed the additional information submitted for the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to submitted information, the proposed project will include the installation of a 105,00 gallon water storage tank (28.43 feet tall) on a wooded hillside located off of County Route 72/1 in Lincoln County.

Architectural Resources:
Submitted information indicates that the water tank is the only above ground component to this project. According to the submission, there is one modern home that will be able to see the proposed water tank. After review of the submitted information, it is our opinion that there are no architectural resources eligible for or included in the National Register of Historic Places that will be impacted by this project. No further consultation regarding architectural resources is necessary.

Archaeological Resources:
A search of office site files located no known archaeological sites within the proposed water storage tank site. Submitted information indicates that the proposed tank will be installed on sloped terrain, where in our opinion, it is unlikely that any intact archaeological deposits are present. In our opinion, there are no archaeological sites located within the proposed project area that are eligible for or listed in the National Register of Historic Places. If, however, intact archaeological deposits are encountered during construction, all activity within the discovery area shall cease and our office shall be contacted immediately.

We appreciate the opportunity to be of service. *If you have any questions regarding the Section 106 process or our comments, please contact Shirley Stewart Burns, Structural Historian, or Carolyn Kender, Archaeologist, in the Historic Preservation Office at (304) 558-0240.*

Sincerely,

Susan M. Pierce

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/CMK/SSB

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Issued: December 1, 2014

FINAL
12/21/2014

CASE NO. 14-1434-PWD-CN

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
Application for a certificate of convenience and necessity to construct improvements to its water system, near Frances Creek, Kiah Creek and surrounding areas in Logan County.

RECOMMENDED DECISION

The application is granted, and the project, its funding, and the Staff-recommended post-construction rates are approved.

PARTIAL CASE HISTORY

On August 11, 2014, Logan County Public Service District (District), by counsel Mark E. Kauffelt, filed with the Public Service Commission (Commission) an application for a certificate of convenience and necessity to construct improvements to its water system near Frances Creek, Kiah Creek and surrounding area in Logan County. The District also requested approval of post-construction rates that would provide an increase of approximately $735,154 in additional revenue, a 15.3% increase. Supporting documents were attached.

Also on August 11, 2014, the Commission directed the District to publish a Notice of Filing (Notice), which provided that, if substantial protest was not filed within thirty days after the date of publication, the Commission might waive formal hearing and grant the application based upon its review of the evidence submitted with the application. The District was also ordered to provide individual notice of its requested rate increase to its customers.

On August 19, 2014, by Order, the Commission referred this matter to the Division of Administrative Law Judges for decision no later than January 23, 2015, if substantial protest was filed, or December 26, 2014, if not.

On September 26, 2014, the District, by counsel, filed a certificate that included that it had mailed the Notice to its only resale customer, the Chapmanville Water Department, by certified mail on August 8, 2014, and had mailed the Notice to its non-resale customers on September 8, 2014. Also filed were affidavits establishing publication of the Notice on August 27, 2014, in The Lincoln Journal and The Lincoln News Sentinel; The Williamson Daily News, published in Mingo County; the Logan Banner; the Independent Herald, published in Wyoming County; and the Coal Valley News, published in Boone County.

On November 5, 2014, Staff Attorney Chris Howard filed the Final Joint Staff Memorandum, with an attached memorandum from Mansour Mashayekhi, of the Engineering Division, and Karen L. Buckley, of the Utilities Division, which included the following: The project will extend water service to approximately 84 potential residential and small commercial customers in the Lincoln County communities of Frances Creek, Kiah Creek and surrounding area. The potential customers are presently served by wells that provide insufficient quantity and quality of water. It has been approved by the West Virginia Infrastructure and Jobs Development Council (WVIJDC). The total estimated project cost is $2,830,000, including an estimated construction cost of $2,288,000; the costs are reasonable. Most permits have been received, including Permit No. 19,429, issued on May 16, 2014, by the West Virginia Office of Environmental Health Services. The project will be funded by a $50,000 Lincoln County Commission grant, a $1,500,000 Small Cities Block Grant, a $747,000 Rural Utilities Service (RUS) grant, and a $533,000 RUS loan, payable over 38 years at an annual interest rate of 2.125%. Staff recommended that the project and its funding be approved. The proposed rates would generate $266,717 in total surplus, but in Case No. 13-1657-PWD-CN it was determined that the District only needed a surplus of $143,161 for capital additions. Staff recommended post-construction rates that would provide $162,245 in additional revenue, a 3.1% increase, which would provide an annual surplus of $170,640 and a debt service coverage factor of 115.18%. Those post-construction rates are contained in a Staff-recommended tariff labeled Step 1, which will come into effect at the completion of this project if it is completed before the project at issue in Case No. 14-1425-PWD-CN is completed. Because the projects at issue in this matter and in Case No. 14-1425-PWD will be constructed concurrently, Staff developed Step 2 rates, which will preempt the Step 1 rates if the two projects are completed at the same time or the Case No. 14-1425-PWD-CN project is completed before this project is completed; if the Case No. 14-1425-PWD-CN project is completed after this project is completed, the Step 2 rates will come into effect upon completion of the Case No. 14-1425-PWD-CN project. The Step 2 rates will provide $193,183 in additional revenue, a 3.7% increase, which will provide a surplus of $174,347 and 115.29% debt service coverage.

On November 13, 2014, the undersigned issued a Procedural Order that required the District to file any objection to the Staff-recommended rates no later than November 24, 2014.

On November 24, 2014, the District, by counsel, filed a letter stating that it did not object to the Staff-recommended rates.

FINDINGS OF FACT

1. On August 11, 2014, Logan County Public Service District (District), by counsel Mark E. Kauffelt, filed with the Public Service Commission (Commission) an application for a certificate of convenience and necessity to construct improvements to its water system near Frances Creek, Kiah Creek and surrounding area in Logan County. The District also requested approval of increased post-construction rates that would provide an increase of approximately $735,154 in additional revenue, a 15.3% increase. Supporting documents were attached. (See application).

2. The District published a Notice of Filing on August 27, 2014, in The Lincoln Journal and The Lincoln News Sentinel; The Williamson Daily News, published in Mingo County; the Logan Banner; the Independent Herald, published in Wyoming County; and the Coal Valley News, published in Boone County. It also sent a copy of the Notice of Filing to its only resale customer, the Chapmanville Water Department, by certified mail, and to each of its non-resale customers. (See filings of September 26, 2014).

3. The project will extend water service to approximately 84 potential residential and small commercial customers in the Lincoln County communities of Frances Creek, Kiah Creek and surrounding area. The potential customers are presently served by wells that provide insufficient quantity and quality of water. The project is needed. (See application; memorandum filed November 10, 2014)

4. The project has been approved by the West Virginia Infrastructure and Jobs Development Council. (See application; memorandum).

5. The total estimated project cost is $2,830,000, including an estimated construction cost of $2,288,000; the costs are reasonable. (See application; memorandum).

6. Most permits have been received, including Permit No. 19,429, issued on May 16, 2014, by the West Virginia Office of Environmental Health Services. (See application; memorandum).

7. The project will be funded by a $50,000 Lincoln County Commission grant, a $1,500,000 Small Cities Block Grant, a $747,000 Rural Utilities Service grant, and a $533,000 RUS loan, payable over 38 years at an annual interest rate of 2.125%. (See application; memorandum).

8. Staff recommended that the project and its funding be approved. The proposed rates would generate $266,717 in total surplus, but in Case No. 13-1657-PWD-CN it was determined that the District only needed a surplus of $143,161 for capital additions. Staff recommended post-construction rates that would provide $162,245 in additional revenue, a 3.1% increase, which would provide an annual surplus of $170,640 and a debt service coverage factor of 115.18%. Those post-construction rates are contained in a Staff-recommended tariff labeled Step 1, as provided in Appendix A hereto, which will come into effect at the completion of this project if it is

completed before the project at issue in Case No. 14-1425-PWD-CN is completed. (See memorandum).

9. Because the projects at issue in this matter and in Case No. 14-1425-PWD will be constructed concurrently, Staff developed Step 2 rates, as provided in Appendix B, which will become effective at the completion of the project, preempting the Step 1 rates, if the two projects are completed at the same time or the Case No. 14-1425-PWD-CN project is completed before this project is completed. The Step 2 rates will provide $193,183 in additional revenue, a 3.7% increase, which will provide a surplus of $174,347 and 115.29% debt service coverage. (See memorandum).

10. The District did not object to the Staff-recommended rates. (See filing of November 24, 2014).

CONCLUSIONS OF LAW

1. It is appropriate to grant the application, pursuant to W.Va. Code §24-2-11, and to approve the project, because the public convenience and necessity require it; its costs are reasonable; and substantial protest was not filed.

2. It is appropriate to approve the funding, as stated in Finding of Fact 7.

3. It is appropriate to approve the Staff-recommended post-construction rates, as provided at Appendix A and Appendix B, because they are necessary to provide revenue sufficient, but not more than sufficient, to cover the District's reasonable and necessary operating expenses and debt service, and to provide a reasonable cash surplus for capital additions.

ORDER

IT IS, THEREFORE, ORDERED that the application for a certificate of convenience and necessity filed August 11, 2014, by Logan County Public Service District to construct improvements to its existing water system near Frances Creek, Kiah Creek and surrounding area in Logan County, is granted and the project is approved.

IT IS FURTHER ORDERED that the funding for the project, consisting of $50,000 Lincoln County Commission grant, a $1,500,000 Small Cities Block Grant, a $747,000 Rural Utilities Service grant, and a $533,000 RUS loan, payable over 38 years at an annual interest rate of 2.125%, is approved.

IT IS FURTHER ORDERED that, if there is any change in the plans and/or scope of the project or if a change in project cost or financing affects rates, Logan County Public Service District obtain Commission approval prior to commencing construction.

IT IS FURTHER ORDERED that Logan County Public Service District not proceed to construction unless it has received all federal, state and local permits.

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

IT IS FURTHER ORDERED that Logan County Public Service District file a copy of the engineer's certified tabulation of bids for the project within ten (10) days of the opening date.

IT IS FURTHER ORDERED that Logan County Public Service District submit a certificate of substantial completion of the project from its engineer as soon as it becomes available.

IT IS FURTHER ORDERED that the rates and charges, as provided in Appendix A attached hereto, are approved, to become effective upon substantial completion of the project if the project is completed before completion of the project at issue in Case No. 14-1425-PWD-CN.

IT IS FURTHER ORDERED that the rates and charges, as provided in Appendix B attached hereto, are approved, to become effective upon completion of the project if the project is completed simultaneously or after completion of the project at issue in Case No. 14-1425-PWD-CN.

IT IS FURTHER ORDERED that Logan County Public Service District file an original and at least five (5) copies of its tariff containing the rates and charges, as provided in Appendix A, within thirty (30) days of substantial completion of the project, if the project is completed before completion of the project at issue in Case No. 14-1425-PWD-CN.

IT IS FURTHER ORDERED that Logan County Public Service District file an original and at least five (5) copies of its tariff containing the rates and charges, as provided in Appendix B, within thirty (30) days of substantial completion of the project, if the project is completed simultaneously or after completion of the project at issue in Case No. 14-1425-PWD-CN.

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

The Executive Secretary of the Commission is ordered to serve a copy of this order upon the Commission by hand delivery; by electronic service upon all parties of record who have filed an e-service agreement with the Commission; and by United States Certified Mail, return receipt requested, upon all parties of record who have not filed an e-service agreement.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary within fifteen (15) days of the date of this order. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served the 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 fifteen-day time period, unless it is ordered stayed 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 Executive Secretary. No such waiver will be effective until approved by order of the Commission.

Sunya Anderson
Administrative Law Judge

SA:s
141434aa.docx

LOGAN COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 14-1434-PWD-CN

APPROVED TARIFF-STEP 1

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

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

RATES (Customers with metered water supply)

First	2,000 gallons used per month	$9.59 per 1,000 gallons
Next	58,000 gallons used per month	$9.18 per 1,000 gallons
Next	240,000 gallons used per month	$6.77 per 1,000 gallons
All Over	300,000 gallons used per month	$3.54 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following based on meter size:

5/8	inch meter	$ 19.18	per month
3/4	inch meter	$ 28.77	per month
1	inch meter	$ 47.95	per month
1-1/4	inch meter	$ 70.01	per month
1-1/2	inch meter	$ 95.90	per month
2	inch meter	$ 153.44	per month
3	inch meter	$ 306.88	per month
4	inch meter	$ 479.50	per month
6	inch meter	$ 959.00	per month
8	inch meter	$1,534.40	per month

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

Equivalent to 4,500 gallons of water usage - $42.13 per month

SALES FOR RESALE

All water for resale to the Town of Chapmanville will be billed in accordance to the approved rate of $1.70 per 1,000 gallons per month

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever 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. The pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to their system.

RECONNECTION

$20.00

To be charged when the supply of water is turned off for violations 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 water utility up to 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

$0.74 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of the applicant's specific customer class or fifty dollars ($50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

LOGAN COUNTY PUBLIC SERVICE DISTRICT
CASE NO. 14-1434-PWD-CN

APPROVED TARIFF-STEP 2

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

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

RATES (Customers with metered water supply)

First	2,000 gallons used per month	$9.64 per 1,000 gallons
Next	58,000 gallons used per month	$9.24 per 1,000 gallons
Next	240,000 gallons used per month	$6.81 per 1,000 gallons
All Over	300,000 gallons used per month	$3.56 per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following based on meter size:

5/8	inch meter	$ 19.28	per month
3/4	inch meter	$ 28.92	per month
1	inch meter	$ 48.20	per month
1-1/4	inch meter	$ 70.37	per month
1-1/2	inch meter	$ 96.40	per month
2	inch meter	$ 154.24	per month
3	inch meter	$ 308.48	per month
4	inch meter	$ 482.00	per month
6	inch meter	$ 964.00	per month
8	inch meter	$1,542.40	per month

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

Equivalent to 4,500 gallons of water usage - $42.38 per month

SALES FOR RESALE

All water for resale to the Town of Chapmanville will be billed in accordance to the approved rate of $1.71 per 1,000 gallons per month

DELAYED PAYMENT PENALTY

The above schedule is net. On all accounts not paid in full when due, ten percent (10%) will be added to the net current amount unpaid. *This delayed payment penalty is not interest and is to be* collected only once for each bill where it is appropriate.

TAP FEE

The following charges are to be made whenever 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. The pre-construction tap fee will be invalid after the completion of construction adjacent to an applicant's premises that is associated with a certificate proceeding.

A tap fee of $350.00 will be charged to customers who apply for service outside of a certificate proceeding before the Commission for each new tap to their system.

RECONNECTION

$20.00

To be charged when the supply of water is turned off for violations 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 water utility up to 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

$0.74 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of the applicant's specific customer class or fifty dollars ($50.00), whichever is greater. This fee may be changed by applicable statutory provisions.

DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

REPLY TO
ATTENTION OF

APR 28 2014

Regulatory Division
South/Transportation Branch
LRH-2014-308-OHR-Kiah Creek

Logan County Public Service District
P.O. Box 506
Logan, West Virginia 25601

To Whom It May Concern:

I refer to the Department of the Army (DA) permit application received in our office on April 3, 2014 concerning the proposed Frances Creek Waterline Extension Project. You have requested DA authorization to discharge temporary fill material within 805 linear feet (lf) of 22 streams that are indirect tributaries to the Ohio River for the installation of a potable water line associated with the proposed project. The proposed project is located within Logan and Lincoln Counties, West Virginia. This project has been assigned the following file number: LRH-2014-308-OHR-Kiah Creek. Please reference this file number on all future correspondence related to this proposed project.

The United States Army Corps of Engineers (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a DA permit be obtained prior to discharging dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 (Section 10) requires a DA permit be obtained for any work in, on, over or under a navigable water.

According to the information provided, you propose to install approximately 41,350 lf of 8-inch and smaller potable water line that will cross approximately 805 lf of 22 indirect tributaries to the Ohio River. To the extent that the Corps has jurisdiction over the discharge of dredged or fill material associated with the potable water line crossing, the proposed project meets the criteria for Nationwide Permit (NWP) # 12 (enclosed) under the February 21, 2012, Federal Register, Issuance of Nationwide Permits (77 FR 10184) provided you comply with all terms and conditions of the enclosed material, including Section 401 Water Quality Certification (WQC) conditions approved by the West Virginia Department of Environmental Protection for the NWP.

It is your responsibility to ensure all work conforms to all terms and conditions listed in the enclosed material for this authorization to be valid. Likewise, it is also your responsibility to ensure the authorized activity does not cause more than minimal changes to the hydraulic flow characteristics, increase flooding, or cause more than minimal degradation of water quality of any stream.

Printed on Recycled Paper

The enclosed copy of the NWP with 401 WQC shall be kept at the project site during construction. Upon completion of the work, the attached certification must be signed and returned to this office. Please be aware this correspondence does not obviate the requirement to obtain state or local assent required by law for the activity. If you have any questions concerning the above, please contact Kayla Adkins of the South/Transportation Branch at (304) 399-5850, by mail at the above address, or by email at kayla.n.adkins@usace.army.mil.

Sincerely,

Richard A. Hemann

Richard A. Hemann
Regulatory Project Manager
South/Transportation Branch

Enclosure

Copy Furnished via email

Mr. Rick Roberts
E.L. Robinson Engineering
5088 Washington Street, West
Charleston, West Virginia 25313

Site number	Waterway name	Latitude & Longitude		Flow Regime or Cowardin Class	Area of Temporary Impact	Length (lf) of Temporary Fill	Other Pertinent Information
Crossing 1	UNT Frances Creek	38.002572	-82.206741	Intermittent	175 ft^2	35 lf	Water Line Crossing
Crossing 2	UNT Frances Creek	38.004144	-82.217794	Intermittent	150 ft^2	30 lf	Water Line Crossing
Crossing 3	UNT Frances Creek	38.007788	-82.226313	Intermittent	175 ft^2	35 lf	Water Line Crossing
Crossing 4	Frances Creek	38.006325	-82.230441	Perennial	200 ft^2	40 lf	Water Line Crossing
Crossing 5	Kiah Creek	38.003577	-82.234163	Perennial	200 ft^2	40 lf	Water Line Crossing
Crossing 6	Kiah Creek	37.996575	-82.229155	Perennial	200 ft^2	40 lf	Water Line Crossing
Crossing 7	Kiah Creek	37.995136	-82.229941	Perennial	200 ft^2	40 lf	Water Line Crossing
Crossing 8	Kiah Creek	37.987536	-82.219450	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 9	Kiah Creek	37.987844	-82.218869	Perennial	225 ft^2	45 lf	Water Line Crossing
Crossing 10	Kiah Creek	37.987561	-82.215794	Perennial	200 ft^2	40 lf	Water Line Crossing
Crossing 11	Kiah Creek	37.987516	-82.212963	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 12	Kiah Creek	37.987386	-82.212263	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 13	Trace Branch	37.990891	-82.227552	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 14	Trace Branch	37.988930	-82.228877	Perennial	250 ft^2	50 lf	Water Line Crossing
Crossing 15	Trace Branch	37.987294	-82.229269	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 16	Trace Branch	37.984261	-82.230611	Perennial	200 ft^2	40 lf	Water Line Crossing
Crossing 17	Trace Branch	37.983138	-82.231575	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 18	Trace Branch	37.983066	-82.235534	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 19	Trace Branch	37.983102	-82.235880	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 20	Copley Branch	37.982872	-82.232055	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 21	Copley Branch	37.980486	-82.231377	Perennial	150 ft^2	30 lf	Water Line Crossing
Crossing 22	Copley Branch	37.979691	-82.231066	Perennial	150 ft^2	30 lf	Water Line Crossing

Table 1. Length of stream crossings for potable water line installation work proposed with the Frances Creek Waterline Extension Project.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/3/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. 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).

PRODUCER
Bill Bailey Insurance Agency
701 Highland Avenue
P. O. Box 246
Williamstown WV 26187

CONTACT NAME: Renee Shotwell
PHONE (A/C, No, Ext): (304) 375-4900 FAX (A/C, No): (304) 375-2162
E-MAIL ADDRESS: rshotwell@bb-ins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: American Alternative Insurance	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Logan County Public Service District
P.O. Box 506
Logan WV 25601

COVERAGES CERTIFICATE NUMBER: CL156301949 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:			GPPA-PF-6054190-04	3/29/2015	3/29/2016	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
							Stopgap	$ 1,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS HIRED AUTOS / NON-OWNED AUTOS			GPPA-PF-6054190-04	3/29/2015	3/29/2016	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
							Underinsured motorist	$ 1,000,000
A	UMBRELLA LIAB / X OCCUR X EXCESS LIAB / CLAIMS-MADE DED / RETENTION $			GPPA-PF-6054190-04	3/29/2015	3/29/2016	EACH OCCURRENCE	$ 4,000,000
							AGGREGATE	$ 4,000,000
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

USDA Rural Development
418 Goff Mountain Road
Room 103
Cross Lanes, WV 25313

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Renee D. Shotwell

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State of West Virginia
Earl Ray Tomblin
Governor

Office of the Governor
State Capitol
1900 Kanawha Boulevard, East
Charleston, WV 25305

Telephone: (304) 558-2000
Toll Free: (888) 438-2731
Fax: (304) 342-7025
www.governor.wv.gov

January 6, 2014

The Honorable K.K. Matthews
President
Lincoln County Commission
Post Office Box 497
Hamlin, West Virginia 25523

Dear Commissioner Matthews:

Thank you for your application to the Small Cities Block Grant Program for the Lincoln County Commission Francs Creek Waterline Extension Project.

On December 12, 2012 the Lincoln County Commission received a commitment of $200,000 in Small Cities Block Grant funds for the Logan Public Service District, Frances Creek Waterline Extension Project.

The Small Cities Block Grant award was based on your immediate need for funds. Therefore, $200,000 was made available from FY2012 allocation. Based upon the Lincoln County Commission's ability to proceed with this worthwhile project, I am committing $1,300,000 from the FY2013 Small Cities allocation. Your existing Small Cities Block Grant contract will be amended to include the additional funds.

The West Virginia Development Office reserves the right to withdraw these funds if your project does not proceed on schedule. Should you have any questions, please call Mr. Todd Goddard of the West Virginia Development Office, at 304-558-2234.

I am pleased to assist with these improvements for the citizens of Lincoln County.

Sincerely,

Earl Ray Tomblin

Earl Ray Tomblin
Governor

12SCBG0008
ERT: sf

STATE OF WEST VIRGINIA

SMALL CITIES BLOCK GRANT AWARD

TO THIS IS TO CERTIFY THAT A GRANT OF $1,300,000 HAS BEEN AWARDED TO THE

LINCOLN COUNTY COMMISSION

FOR THE FRANCES CREEK WATER LINE EXTENSION PROJECT

EARL RAY TOMBLIN
GOVERNOR

12SCBG0008

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LITHO. IN U.S.A.

Lincoln County Commission

COUNTY COMMISSIONERS

CHARLES McCANN, President
CHARLES VANCE
THOMAS RAMEY, Jr.

Lincoln County
P.O. Box 497
Hamlin, West Virginia 25523
(304) 824-7990 ext. 221
FAX (304) 824-2012

JUDY JOHNSON
ADMINISTRATOR

March 15, 2011

Ben F. Lowe, Jr, Chairman
Logan Public Service District
PO Box 506
Logan, WV 25601

RE: Frances Creek Waterline Extension
Harts, WV

Dear Chairman Lowe:

The Lincoln County Commission is committing $50,000 for the Frances Creek Waterline Extension to extend water to the residents on Frances Creek of Harts, WV. This area is in dire need of safe drinking water. This area was heavily mined, which disturbed the quality and quantity of well water.

If we can be of any assistance concerning this water project, please feel free to contact my office at the number listed above.

Sincerely,

Charles S. McCann

Charles S. McCann, President
Lincoln County Commission

Approved OMB.No. 0572-0121

RUS Bulletin 1780-12

WATER OR WASTE SYSTEM GRANT AGREEMENT
UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE

THIS AGREEMENT dated June 5, 2015 between

Logan County Public Service District

a public corporation organized and operating under Chapter 16, Article 13A, West Virginia Code

(Authorizing Statute)

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (waste) system to serve the area under jurisdiction at an estimated cost of **$2,830,000** and has duly authorized the undertaking of such project.

Grantee is able to finance not more than **$2,083,000** of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of **$2,083,000** has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed **$747,000** or **26.40%** percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to

Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed **26.40%** percent of the development costs, as defined by applicable Rural Utilities Service Instructions. GRANTEE AGREES THAT GRANTEE WILL:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0121. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes of service, adopted by resolution dated _____, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return. ***[Revision 1, 04/17/1998]***

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

All that real property associated with the Logan County Public Service District's water system.

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above. ***[Revision 1, 04/17/1998]***

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the property for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than $5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of $5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described equipment(use continuation sheets as necessary).

N/A

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland ``Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of $100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/97]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term ``facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed **747,000.00** which it will advance to Grantee to meet not to exceed **26.40%** percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Chairman

and attested and its corporate seal affixed by its duly authorized

Attest:

By: Mike Stone

(Title)

By: Ben Lowe
Ben Lowe

(Title) **Chairman**

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By: Gracey Bowers Area Director
(Title)

JACKSONKELLY
ATTORNEYS AT LAW PLLC

500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
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CLOSING MEMORANDUM

3.13

To: **Tracey Rowan**
Sara Rogers
William Baisden

From: **Samme Gee**

Date: **June 5, 2015**

Re: **Logan County Public Service District**
Water Revenue Bonds (Frances Creek Project)
Series 2015 A (United States Department of Agriculture)
Project No. 2011W-1272

DISBURSEMENTS TO DISTRICT

A.	Payor:	United States Department of Agriculture
	Source:	Series 2015 A Bonds Proceeds
	Amount:	$23,037.50
	Date:	June 5, 2015
	Form:	Wire Transfer
	Payee:	Logan County Public Service District
	Bank:	Logan Bank & Trust P.O. Box 597 43 Washington Avenue Logan, WV 25601
	Contact:	Bart Willis, (304) 752-1166
	Routing No.:	051501024
	Account No.:	008524
	Account:	Frances Creek Project Account

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Denver, CO • Crawfordsville, IN • Evansville, IN • Lexington, KY • Akron, OH • Pittsburgh, PA • Washington, DC

LOGAN COUNTY PUBLIC SERVICE DISTRICT
RESOLUTION APPROVING INVOICES RELATING TO CONSTRUCTION AND OTHER SERVICES FOR THE FRANCIS CREEK PROPOSED WATER PROJECT AND AUTHORIZING PAYMENT THEREOF,

WHEREAS, the Logan County Public Service District has reviewed the invoices attached hereto and incorporated herein by reference relation to the construction of the Francis Creek Water Project funded by the United States Department of Agriculture ("USDA") and find as follows:

a) That none of the items for which payment is proposed to be made has been requested from another funding source.

b) That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a Cost of the project.

c) That each of such costs has been otherwise properly incurred.

d) That the payment for each of the items proposed is due and owing.

NOW, THEREFORE, BE IT RESOLVED the Logan County Public Service District by as follows: There is hereby authorized and directed the payment of the attached invoices as follows:

Vendor	Total	USDA Loan (533,000)
JacksonKelly	$20,000.00	$20,000.00
Griffith & Associates	$3,037.50	$3,037.50
Round to	23,037.50	23,037.50

ADOPTED BY the Logan County Public Service District, at the meeting held on the 2nd day of June, 2015.

By: Ben F Foster Jr
Its: Chairman

JACKSONKELLY
ATTORNEYS AT LAW PLLC

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INVOICE

EMPLOYER I.D. NO. 550394215

June 5, 2015

1210/339

Logan County Public Service District
41 Armory Road
Monaville, WV 25636
ATTN: Ben Lowe, Jr., Chairman

Re: Logan County Public Service District
Water Revenue Bonds (Frances Creek Project)
Series 2015 A (United States Department of Agriculture)

For legal fees and expenses rendered serving as bond counsel for the above-referenced transaction.

FEES & EXPENSES: $20,000.00

TOTAL STATEMENT: $20,000.00

Wiring Instructions:

Jackson Kelly PLLC
1600 Laidley Tower
500 Lee Street
PO Box 553
Charleston, WV 25301

Bank Name	Branch Banking & Trust
ABA Number	051503394
Account Number	5172879588
Reference Information:	1210/339

Charleston, WV • Clarksburg, WV • Martinsburg, WV • Morgantown, WV • Wheeling, WV
Denver, CO • Crawfordsville, IN • Evansville, IN • Lexington, KY • Akron, OH • Pittsburgh, PA • Washington, DC
Jackson Kelly PLLC has a wholly owned subsidiary law firm, JK Minerals Law Group PLLC.

Griffith & Associates, PLLC
950 Little Coal River Road
Alum Creek, WV 25003

Invoice

Invoice #: 6937
Invoice Date: 05/31/2015
Due Date: 06/30/2015
Case:
P.O. Number:

Bill To:

Logan County PSD - Frances Creek CPA
Mr. William Balsden, CPA, Manager
Post Office Box 506
Logan, West Virginia 25601

Description	Hours/Qty	Rate	Amount
5-12-15 PROJECT WORK	4	150.00	600.00
5-18-15 PROJECT WORK	3	150.00	450.00
5-20-15 PROJECT WORK	3	150.00	450.00
5-26-15 PROJECT WORK	2	150.00	300.00
5-30-15 PROJECT WORK	2	150.00	300.00

Total	$2,100.00
Payments/Credits	$0.00
Balance Due	$2,100.00

Griffith & Associates, PLLC
950 Little Coal River Road
Alum Creek, WV 25003

Invoice

Invoice #: 5973
Invoice Date: 12/31/2014
Due Date: 01/31/2015
Case:
P.O. Number:

Bill To:

Logan County PSD - Frances Creek CPA
Mr. William Balsden, CPA, Manager
Post Office Box 506
Logan, West Virginia 25601

Description	Hours/Qty	Rate	Amount
9-2-14 E-MAIL/PROJECT WORK	3.25	150.00	487.50
12-1-14 PROJECT WORK	1	150.00	150.00
12-2-14 E-MAIL/PROJECT WORK/TELEPHONE CALL	1	150.00	150.00
12-10-14 E-MAIL/PROJECT WORK/TELEPHONE CALL	0.5	150.00	75.00
12-15-14 E-MAIL/PROJECT WORK	0.5	150.00	75.00
CC: REGION II			

Total	$937.50
Payments/Credits	$0.00
Balance Due	$937.50

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4.1

June 5, 2015

Logan County Public Service District
Monaville, West Virginia

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Logan County Public Service District
Water Revenue Bonds (Frances Creek Project)
Series 2015 A (United States Department of Agriculture)

Ladies and Gentlemen:

We have served as bond counsel to Logan County Public Service District (the "Issuer") in connection with the issuance of its Water Revenue Bonds (Frances Creek Project), Series 2015 A (United States Department of Agriculture), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the issuance of the Bonds. The Bonds are issued in the principle amount of $533,000, in the form of one bond and bear interest from the date hereof, on the amount advanced hereunder, at the rate of 2.125% per annum.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended (the "Act"), and have been authorized by a Bond Resolution duly adopted by the Issuer on June 2, 2015, as supplemented by a Supplemental Resolution duly adopted by the Issuer on June 2, 2015 (together, the "Resolution"). The Bonds are issued for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

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Denver, CO • Crawfordsville, IN • Evansville, IN • Lexington, KY • Akron, OH • Pittsburgh, PA • Washington, DC

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 seal the Bonds, all under the Act and other applicable provisions of law.

2. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with the terms hereof.

3. The Bonds have been duly authorized, issued, executed and delivered by the Issuer 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 and the all in accordance with the terms of the Bonds and the Resolution.

4. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

5. The Bonds have not been issued on the basis that the interest thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

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

We have examined the executed Bond number AR-1 and in our opinion, the form of said Bond and its execution are regular and proper.

Very truly yours,

Jackson Kelly PLLC

ABRAHAM & ILDERTON, PLLC
ATTORNEYS AT LAW
115 Prosperity Lane
Logan, WV 25601

June 5, 2015

Logan County Public Service District
Monaville, West Virginia

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Re: Final Title Opinion for Logan County Public Service District

Ladies and Gentlemen:

I am counsel to Logan County Public Service District (the "Issuer") in connection with a proposed project to construct certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"). I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the United States Department of Agriculture for the Project. Please be advised of the following:

1. The Issuer is a duly created and validly existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Bureau for Public Health.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. I have investigated and ascertained the location of, and I am familiar with the legal description of, the necessary sites, including easements and/or rights of way, required for the Project as set forth in the plans for the Project prepared by E.L. Robinson Engineering Company, the consulting engineers for the Project.

4. I have examined the records on file in the Offices of the Clerks of The County Commissions of Logan County and Lincoln County, West Virginia, the counties in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way, with the exception of those listed in Paragraph 5, sufficient to assure undisturbed use and possession for the purpose of construction, operation and

Maintenance for the estimated life of the Project.

5. The following listed properties are to be acquired by eminent domain and the necessary filings have been made in the Offices of the clerks of the Circuit Courts of Logan County and Lincoln County, West Virginia, to permit the Issuer a right-of-entry for the purpose of construction, operation and maintenance of the Project on the subject properties. The Issuer's title thereto is defeasible in the event the Issuer does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and our certification is subject to the following pending litigation:

N/A

6. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Offices of the Clerks of The County Commissions of Logan County and Lincoln County to protect the legal title to and interest of the Issuer.

Very truly yours,

Brian R. Abraham, Esq.

BRA:kjc

ABRAHAM & ILDERTON, PLLC
ATTORNEYS AT LAW
115 Prosperity Lane
Logan, WV 25601

June 5, 2015

Logan County Public Service District
Monaville, West Virginia

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, 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: Frances Creek Project

Ladies and Gentlemen:

I am counsel to Logan County Public Service District (the "Issuer") in connection with a proposed project to construct certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"). I provide this final title opinion on behalf of the Issuer to satisfy the requirements of the United States Department of Agriculture and the West Virginia Infrastructure and Jobs Development Council for the Project. Please be advised of the following:

1. The Issuer is a duly created and validly existing public service district possessed with all the powers and authority granted to public service districts under the laws of the State of West Virginia to construct, operate and maintain the Project as approved by the West Virginia Bureau for Public Health.

2. The Issuer has obtained all necessary permits and approvals for the construction of the Project.

3. I have investigated and ascertained the location of, and I am familiar with

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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 E.L. Robinson Engineering Company, 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 Lincoln County, West Virginia, the county in which the Project is to be located, and, in my opinion, the Issuer has acquired legal title or such other estate or interest in all of the necessary site components for the Project, including all easements and/or rights of way, with the exception of those listed in Paragraph 5, sufficient to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the estimated life of the Project.

5. The following listed properties are to be acquired by eminent domain and the necessary filings have been made in the Office of the Clerk of the Circuit Court of Lincoln County, West Virginia, to permit the Issuer a right-of-entry for the purpose of construction, operation and maintenance of the Project on the subject properties. The Issuer's title thereto is defeasible in the event the Issuer does not satisfy any resulting judgment and/or award in the proceedings for acquisition of said properties, and our certification is subject to the following pending litigation:

N/A

6. All deeds, easements and rights of way which have been acquired to date by the Issuer have been duly recorded in the Office of the Clerk of the County Commission of Lincoln County to protect the legal title to and interest of the Issuer.

Very truly yours,

Brian R. Abraham

BRIAN R. ABRAHAM, Esq.

Position 5

Form RD 1927-10
(Rev. 7-98)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

FORM APPROVED
OMB NO. 0575-0147

FINAL TITLE OPINION

LOAN APPLICANT	ADDRESS OR PROPERTY COVERED BY THIS OPINION	
Logan County Public Service District	Frances Creek Water Project	
APPLICANT FOR TITLE EXAMINATION	COUNTY	STATE
Logan County Public Service District	Logan	WV

I. I have examined title to the property described in the security instrument described in paragraph II. B. below. My examination covered the period from the time of termination of title search covered by my Preliminary Title Opinion on Form RD 1927-9; or the time of recordation of the initial loan security instrument if this opinion covers land already owned by the loan applicant in a subsequent loan case, to June 5 (Date), 2015 at 5:00 a.m. p.m. (including the time of filing the current security instrument).

II. Based on said title examination, my preliminary title examination if any, and any additional information concerning the title which has come to my attention, it is my opinion that:

A. Good and marketable title, in accordance with title examination standards prevailing in the area, to said property (real estate and any water rights offered as security) is now vested in Logan County Public Service District

as _____
(Joint tenants, tenants by the entirety, etc.)

B. The United States of America holds a valid Stat. *(Priority)* First *(Mortgage, etc.)* lien on said property as required by Rural Development or the Farm Service Agency, or their successor (Agency), which lien was filed for record on N/A *(Date)*, _____, at _____ a.m. p.m. and is recorded in _____ *(Book, page, and office)*.

C. Said property and lien are subject only to encumbrances, reservations, exceptions, and defects which were approved by written administrative waivers of the Agency attached hereto or to my Preliminary Title Opinion.

III. If a water right is involved and is not covered by the current security instrument, it is subject only to the encumbrances, reservations, exceptions, and defects set forth in said administrative waivers and was made available as security in the following manner (Water stock would normally be reissued in the names of said land owners and the United States of America and delivered to the Agency Official at the time of loan closing):

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0147. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

IV. The term "encumbrances, reservations, exceptions, and defects" means all matters which would prevent the United States from obtaining the required lien on the property identified in paragraph I, including but not limited to (a) mortgages, deeds of trust, and vendors', mechanics', materialmen's, and all other liens, including any provisions thereof for future advances which could take priority over the said lien to the United States, (b) Federal, State, and local taxes, including county, school, improvement, water, drainage, sewer, inheritance, personal property, and income, (c) State and Federal bankruptcy, insolvency, receivership, and probate proceedings, (d) judgments and pending suits, in State and Federal courts, (e) recorded covenants; conditions; restrictions; reservations; liens; encumbrances; easements; rights-of-way; leases; mineral, oil, gas, and geothermal rights (regardless of the right of surface entry); timber rights; water rights; pending court proceedings and other matters of record which affect the title of the property or the ability of the buyer or seller to convey or accept title.

V. This opinion is issued expressly for the benefit of the above-named applicant for title examination and the United States of America acting through the United States Department of Agriculture Agency which provided the assistance, and I assume liability to each hereunder.

6/5/15
(Date)

Brian R. Abraham
(Attorney's signature)

115 Prosperity Lane
Logan, WV 25601

(Address, include ZIP Code)

Attachments

Form RD 442-22
(Rev. 10-96)

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT

FORM APPROVED
OMB NO. 0575-0015

OPINION OF COUNSEL RELATIVE TO RIGHTS-OF-WAY

Date 06-05-2015

Dear Sir:

I have reviewed the action taken by Logan County Public Service District (hereinafter called the "Corporation") in obtaining a right-of-way for the construction, operation, and maintenance of the facilities to be installed, repaired, or enlarged with the proceeds of a loan made or insured by, and/or a grant from Rural Development to the Corporation. I have examined the right-of-way instruments, permits, or licenses obtained from landowners, public bodies, and public utilities and made such searches of the public records necessary to determine the legal sufficiency of the instruments covered by the "Right-of-way

Certificate," executed by the Corporation on June 5, 20 15. I also have examined the "Right-of-way Map" to determine whether continuous and adequate land and rights-of-way are owned or have been acquired by the instruments covered in the "Right-of-way Certificate".

Based on the foregoing examination, and to the best of my knowledge, information, and belief, I am of the opinion that:

A. The legal instruments by which the Corporation has acquired said rights-of-way (a) are in appropriate and due legal form and adequately confer upon the Corporation the necessary rights-of-way for the construction, operation, and maintenance of its facilities in their present or proposed location, and such omissions or defects as may exist will in no substantial way or manner endanger the value or operation of the facilities, and (b) have each been properly recorded in the appropriate public land records of each County in which any of the land affected thereby is situated. Such consents, releases, or subordinations from lienholders recommended by me or required by Rural Development have been obtained.

B. The legal instruments referred to above give unto the Corporation a continuous and adequate right-of-way to permit the construction, operation, and maintenance of the Corporation's facilities except as below noted.

C. Exceptions:
None

Very truly yours,

Attorney for

Logan County Public Service District

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LCPSD - FRANCES CREEK - EASEMENT INDEX

Plan Sheet No.	Easement ID	District	Tax Map	Parcel	Deed Book	Page	Owner	Easement Status	Date Easement Signed	Recorded Deed Book	Recorded Deed Book Page
2	E2-1	Harts Ck.	32	27	135	236	Byron Spry	SIGNED	10/20/14	373	260
3	E3-1	Harts Ck.	31	4.2	301	595	Argus Energy, LLC	SIGNED	1/26/15	373	225
4	E4-1	Harts Ck.	31	8.1	310	239	George F. Perry (WB28-48)	SIGNED	12/18/14	373	147
4	E4-2	Harts Ck.	31	2.1	200	450	Sara Lowe	SIGNED	12/18/14	373	151
4	E4-3	Harts Ck.	31	3	288	390	Paul & Patty Lowe	SIGNED	12/18/14	373	155
5	E5-1	Harts Ck.	31	3.1	318	3	Paul & Patty Lowe	SIGNED	10/17/14	373	159
5	E5-2	Harts Ck.	31	7	228	275	Lionel Scott Dalton	SIGNED	12/1/14	373	263
5	E5-3	Harts Ck.	31	7.2	319	349	Dustin Dallas Dalton	SIGNED	10/13/14	373	266
5	E5-4	Harts Ck.	31	23	290	733	Edward & Ethel Meeks	SIGNED	8/1/14	373	269
5	E5-5	Harts Ck.	38	1	214	261	Carol Vance	SIGNED	8/1/14	373	163
5	E5-6	Harts Ck.	31	17.2	308	565	Elvie B. & Lynn R. Vance	SIGNED	8/1/14	373	167
5	E5-7	Harts Ck.	31	16.3	313	339	Robert & Joyce Workman	SIGNED	8/1/14	373	175
5	E5-7	Harts Ck.	31	16.3	313	339	Bernie Aldridge & Effie Aldridge (LE)	SIGNED	8/1/14	373	171
5	E5-7A	Harts Ck.	31	16	248	255	Robert & Joyce Workman	SIGNED	8/1/14	373	179
5	E5-8	Harts Ck.	31	24	232	240	Robert & Joyce Workman	SIGNED	8/1/14	373	183
6	E6-2	Harts Ck.	31	22	247	262	John F. & Tamara Renee Boling	SIGNED	7/28/14	373	275
6	E6-2	Harts Ck.	31	22	247	262	Cordel & Sarah L. Workman (LE)	SIGNED	7/30/14	373	272
6	E6-6	Harts Ck.	38	3.7	314	67	Gary Lynn & Alice Meeks	SIGNED	7/28/14	373	278
7	E7-1	Harts Ck.	38	3.4	350	231	Alvie E. & Sharon I. Watts	SIGNED	7/28/14	373	284
7	E7-1	Harts Ck.	38	3.1	320	182	Alvie E. & Sharon I. Watts	SIGNED	7/28/14	373	281
7	E7-1A	Harts Ck.	38	2.1	233	313	Kenneth Browning	SIGNED	7/24/14	373	143
7	E7-2	Harts Ck.	38	8.3	348	319	Kenneth Dale Browning (Bridget D. Browning, Exe.)	SIGNED	7/24/14	373	287
7	E7-2A	Harts Ck.	38	2.6	336	381	Kenneth Browning	SIGNED	7/24/14	373	199
7	E7-3	Harts Ck.	38	2.2	307	348	Roy & Suzanne McCown	SIGNED	12/23/14	373	290
7	E7-4	Harts Ck.	38	8.2	337	533	Kenneth Dale Browning	SIGNED	7/24/14	373	293
9	E9-1	Harts Ck.	38	12.2	205	172	Myrtle Dalton	SIGNED	7/16/14	373	299
9	E9-1	Harts Ck.	38	12	268	442	Myrtle Dalton	SIGNED	7/16/14	373	296
9	E9-2	Harts Ck.	38	12.1	301	595	Argus Energy, LLC	SIGNED	1/9/15	373	221
9	E9-3	Harts Ck.	38	19.2	312	504	Gregory & Rebecca Meeks	SIGNED	7/23/14	373	302
9	E9-4	Harts Ck.	38	19.1	283	415	Sarah & Giddings Meeks	SIGNED	7/16/14	373	306
9	E9-5	Harts Ck.	38	11.1&11.3	292	675	Vonetta & Don G. Meeks	SIGNED	7/23/14	373	195
9	E9-7	Harts Ck.	38	10.4	301	595	Argus Energy, LLC	SIGNED	1/26/15	373	229
9	E9-8	Harts Ck.	38	11	268	444	Rickie Lee Meeks	SIGNED	7/11/14	373	309
10	E10-1	Harts Ck.	38	10	255	1	Rickie Lee Meeks	SIGNED	7/11/14	373	312
12	E12-1	Harts Ck.	38	8	201	436	Thurman Elbert Browning	SIGNED	7/27/14	373	315
15	E15-1	Harts Ck.	39	1.3	194	271	Carlos Lowe	SIGNED	7/23/14	373	191
15	E15-2	Harts Ck.	39	2,3&18	357	179	Melve & Sena Lowe	SIGNED	7/23/14	373	187
15	E15-3	Harts Ck.	39	1.1	201	697	Naomi Ruth Lowe Wade	SIGNED	10/4/14	373	318

EXHIBIT A

MARK E. KAUFFELT
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June 5, 2015

Logan County Public Service District
Water Revenue Bonds (Frances Creek Project)
Series 2015 A (United States Department of Agriculture)

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

United States Department of Agriculture
Rural Utilities Service
Cross Lanes, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Ladies and Gentlemen:

We are special PSC counsel to Logan County Public Service District, a public service district, in Boone, Lincoln, Logan, Mingo, and Wyoming Counties, West Virginia (the "Issuer"). As such counsel, we have represented the Issuer before the Public Service Commission of West Virginia in connection with the issuance of the above-referenced bonds, and the proposed project consisting of the construction of certain additions, extensions and improvements to the water treatment and distribution facilities (Frances Creek Project) in Lincoln County (the "Project"). All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

The Issuer has received all orders, certificates and authorizations from the Public Service Commission of West Virginia necessary for the issuance of the Bonds, the construction of the Project, the operation of the System and the implementation of rates and charges. The Issuer has received a Recommended Decision entered December 1, 2014, in Case No. 14-1434-PWD-CN, which became a Final Order of the Public Service Commission of West Virginia on December 21, 2014, among other things, approving the Project and approving the financing for the Project.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,

KAUFFELT & KAUFFELT