LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996B

Closing Date: July 31, 1996

State of West Virginia

Certificate

I, Ken Hechler, 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 1996 CUMULATIVE SUPPLEMENT OF THE WEST VIRGINIA CODE AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

THIRTIETH *day of*

JULY *19* 96

Ken Hechler

Secretary of State

Mary P. Rathbe, Dy.

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

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

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

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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

Editor's notes. — For redesignation of department of health as division of health, within the department of health and human resources, see § 5F-2-1.

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

Constitutionality of article. — The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

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

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

Public service districts are "public utilities." 50 Op. Att'y Gen. 447 (1963).

Hence, they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Att'y Gen. 447 (1963).

Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968); State v. Neary, 365 S.E.2d 395 (W. Va. 1987).

§ 16-13A-1. Legislative findings.

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

In addition to the expanded powers which shall be given to the public service commission, the Legislature also concludes that it is in the best interest of the public for each county commission to review current technology available and consider consolidating existing public service districts where it is feasible and will not result in the interference with existing bond instruments. Further, if such consolidation is not feasible, the Legislature finds that it is in the best interest of the public for each county commission to review current technology available and consider consolidating or centralizing the management of public service districts within its county or multi-county area to achieve efficiency of operations. The Legislature also finds that additional guidelines should be imposed on the creation of new public service districts and that county commissions shall dissolve inactive public service districts as hereinafter provided. The Legislature also finds that the public service commission shall promulgate rules and regulations to effectuate the expanded powers given to the commission relating to public service districts. (1953, c. 147; 1980, c. 60; 1986, c. 81.)

Purpose found in order creating district and in hearings. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). Op. Att'y Gen., July 8, 1976.

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

A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

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

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

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

(a) To study, modify, approve, deny or amend the plans created under section one-b [§ 16-13A-1b] of this article for consolidation or merger of public service districts and their facilities, personnel or administration;

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

(c) To create by general order a separate division within the public service commission to provide assistance to public service districts in technological, operational, financial and regulatory matters. (1986, c. 81.)

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

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification: Provided, That within ninety days of the effective date of this section each county commission in this state shall elect either to perform its own study or request that the public service commission perform such study. Each county commission electing to perform its own study has one year from the date of election to present such plan to the public service commission. For each county wherein the county commission elects not to perform its own study, the public service commission shall conduct a study of such county. The public service commission shall establish a schedule for such studies upon a priority basis, with those counties perceived to have the greatest need of creation or consolidation of public service districts receiving the highest priority. In establishing the priority schedule, and in the performance of each study, the bureau of public health and

the division of environmental protection shall offer their assistance and cooperation to the public service commission. Upon completion by the public service commission of each study, it shall be submitted to the appropriate county commission for review and comment. Each county commission has six months in which to review the study conducted by the public service commission, suggest changes or modifications thereof, and present such plan to the public service commission. All county plans, whether conducted by the county commission itself or submitted as a result of a public service commission study, shall, by order, be approved, disapproved or modified by the public service commission in accordance with rules promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "bureau of public health" for "department of health"; substituted "division of environmental protection" for "department of natural resources"; deleted "and regulations" following "rules" in the last sentence; and made stylistic changes.

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"), (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

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

The county commission of any county may, on its own motion by order duly adopted or upon the recommendation of the public service commission, propose the creation of such public service district within such county, setting forth in

such order a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which 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 [June 6, 1986], no new public service district shall be created under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules and regulations 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 such 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 such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting.

Such 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 such territory is situated in more than one county, then such petition shall be filed in the office of the clerk of the county commission of the county in which the major portion of such 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 such county at the first regular meeting after such filing or at a special meeting called for the consideration thereof.

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation 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 such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service

district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such 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 such hearing. In all cases where proceedings for the creation of such 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 such 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.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation 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 such 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 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 such area or that the creation 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 the district as amended. 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 expansion, merger or other means, it shall refuse to enter an order creating the proposed district and shall enter an order expanding, merging or consolidating the area with an existing public service district, in accordance with rules and regulations adopted by the public service commission for such purpose: Provided, That no expansion 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 expanded 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, expanding, merging or consolidating the district: Provided, however,

That within ten days after the entry of an order creating, expanding or merging or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules and regulations relating to such filings and the approval, disapproval or modification of county commission orders for creating, expanding, merging or consolidating districts.

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 establish 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 with like effect as if a district were being created. The commission shall at all times attempt to bring about the expansion 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. A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

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

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

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

Voters may not force referendum as to continuing or abolishing district. — There is no authority for voters, by written protest or otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Att'y Gen. 33 (1966).

Certain provisions mandatory, but provisions for setting time of hearing and giving notice directory. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall," in relation to the requirements for the posting and publication of notice and the time of setting the hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water services, under appropriate proceedings. Canyon Pub. Serv. Dist. v. Tasa Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

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

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

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

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

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

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

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

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

maximum of forty years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

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

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, which three members become members of the board of the district without any further act or proceedings.

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; and the member or members appointed by the governing bodies of the cities, incorporated towns or other

municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

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

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two [§ 16-13A-2] of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the public service commission.

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, and the term of the remaining member or members for six years, from the first day of the month during which the appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county commission which entered the order creating the district as soon as practicable after the appointments and shall qualify by taking an oath of office: Provided, That any member or members of the board may be removed from their respective office as provided in section three-a [§ 16-13A-3a] of this article.

Any vacancy shall be filled for the unexpired term within thirty days, otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed.

The 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 inspec-

tion and audit. The board shall meet at least monthly. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81; 1994, c. 61.)

Effect of amendment of 1994. — The amendment, in the second paragraph, substituted "bureau of public health" for "department of health," and substituted "division of environmental protection" for "department of natural resources"; in the third paragraph, deleted "not" prior to "less than eighteen thousand," deleted "shall thereby" prior to "become members," and substituted "so appointed are" for "shall be and constitute"; deleted "and constitute" prior to "the board of the district" in the fourth paragraph; deleted "additional" prior to "member or members" in the fifth paragraph; deleted "and regulations" following "rules" in the seventh paragraph; deleted "the" prior to "same out on orders" in the penultimate paragraph; and made stylistic changes.

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

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

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

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

Furnishing water to border residents in neighboring state. — See Op. Att'y Gen., June 26, 1975.

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

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

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

The county commission or the public service commission or any other appointive body creating or establishing a public service district under the provisions of this article, or any group of five percent or more of the customers of a public service district, may petition the circuit court of the county in which the district maintains its principal office for the removal of any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes, but is not limited to, a continued failure to attend meetings of the board, failure to diligently pursue the objectives for which the district was created, or failure to perform any other duty either prescribed by law or required by a final order of the public service commission or for any malfeasance in public office. Any board member charged with a violation under this section who offers a successful defense against such charges shall be reimbursed for the reasonable costs of such defense from district revenues. Such costs shall be considered as costs associated with rate determination by the public service district and the public service commission. If the circuit court judge hearing the petition for removal finds that the charges are frivolous in nature, the judge may assess all or part of the court costs, plus the reasonable costs associated with the board member's defense, against the party or parties who petitioned the court for the board member's removal. (1963, c. 75; 1971, c. 72; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

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

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

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member shall receive fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed nine hundred dollars per annum; for districts with six hundred customers or more but fewer than two thousand customers, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed eighteen hundred dollars per annum; and for districts with two thousand customers or more, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed three thousand dollars per annum. The public service district shall certify the number of customers served to the public service commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules and regulations of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three [§ 6-9A-3], article nine-a, chapter six of this code. Emergency meetings may be called as provided by section three [§ 6-9A-3], article nine-a, chapter six of this code. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

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

§ 16-13A-5. General manager of board.

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

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

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

§ 16-13A-6. Employees of board.

The board may in its discretion from time to time by resolution passed by a majority vote provide for the employment of an attorney, fiscal agent, one or more engineers and such other employees as the board may determine necessary and expedient. The board shall in and by such resolution fix the term of employment and compensation and prescribe the duties to be performed by such employees. (1953, c. 147; 1981, c. 124.)

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five 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 provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two [§ 16-13A-2] of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American-made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24; 1986, c. 81.)

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

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

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

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

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations: Provided, That such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

District may exercise control over sewers where ownership is unknown unincorporated areas. 45 Op. Att'y Gen. 506 (1953).

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

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

Procedure for affixing compensable interests. — Public service commission, in the absence of specific statutory authority, is not empowered to determine whether particular property interests acquired or to be acquired by a utility are compensable in an eminent domain action, or to render any type of monetary judgment for such property interests. Affixing the value of the property taken is the function of the trier of fact in an eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

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

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

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or

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

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

operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

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

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section three [§ 22-11-3], article eleven, chapter twenty-two, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the division of environmental protection, as prescribed by section eleven [§ 22-11-11], article eleven, chapter twenty-two of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "bureau of public health" for "department of health" throughout the section; deleted "and regulations" following "reasonable rules" in the first paragraph and following "all rules" in the second paragraph; and made stylistic changes.

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

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

Abandonment of private systems. — Where a public service district requires a property owner, tenant, or occupant to connect onto its sewer system and to abandon a private sewer system located on the property, such person cannot recover from the public service district the value of the private system on the ground that such abandonment constitutes a taking of private property without just compensation within the meaning of W. Va. Const., art.

III, § 9. Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park, 182 W. Va. 116, 386 S.E.2d 483 (1989).

When duty arises. — Owners, tenants, or occupants have a duty under this section to pay rates and charges for the district sewer facilities from and after the date of receipt of notice (now 30 days after receipt) that such facilities are available. Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983) (construing this section prior to 1980 and 1981 amendments).

Sewage lagoons buffer-zone requirements. — Public Service Commission did not err in finding that the proposed sewage lagoons site satisfied the buffer-zone requirements. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

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

No public service district shall foreclose upon the premises served by such district for delinquent fees, rates or charges for which a lien is authorized by sections nine or nineteen [§§ 16-13A-9 or 16-13A-19] of this article except through the bringing and maintenance of a civil action for such purpose brought in the circuit court of the county wherein the district lies. In every such action, the court shall be required to make a finding based upon the evidence and facts presented that the district prior to the bringing of such action had exhausted all other remedies for the collection of debts with respect to such delinquencies. In no event shall foreclosure procedures be instituted by any such district or on its behalf unless such delinquency had been in existence or continued for a period of two years from the date of the first such delinquency for which foreclosure is being sought. (1982, c. 74.)

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit

may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine [§ 6-9-1 et seq.], chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

The treasurer of each public service district shall keep and preserve all financial records of the public service district for ten years, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Textbooks. — Instructions for Virginia and West Virginia (3rd ed.), § 24-128.10.

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

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

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes of the district, or necessary or incidental thereto, and for constructing improvements and extensions thereto, and also for reimbursing or paying the costs and expenses of creating the district, the board of any such district is hereby authorized to borrow money from time to time and in evidence thereof issue the bonds of such district, payable solely from the revenues derived from the operation of the public service properties under control of the district. Such bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty

years from their respective dates, may bear interest at such rate or rates not exceeding eighteen percent per annum payable at such times, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance with such conditions, and may contain such terms and covenants as may be provided by resolution or resolutions of the board. Notwithstanding the form or tenor thereof, and in the absence of any express recital on the face thereof, that the bond is nonnegotiable, all such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. (1953, c. 147; 1970, cc. 11, 12; 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1981, 1st Ex. Sess., c. 2; 1989, c. 174.)

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

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

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

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

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

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

At or before the time of the issuance of any bonds under this article the board shall by resolution or in the trust indenture provide for the creation of a sinking fund and for monthly payments into such fund from the revenues of the public service properties operated by the district such sums in excess of the cost of maintenance and operation of such properties as will be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish and maintain reserves therefor. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolutions. (1953, c. 147.)

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

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the

operation of the public service properties under its control and to the enforcement of the covenants and undertakings of the district. In the event there shall be default in the sinking fund provisions aforesaid or in the payment of the principal or interest on any of such bonds or, in the event the district or its board or any of its officers, agents or employees, shall fail or refuse to comply with the provisions of this article, or shall default in any covenant or agreement made with respect to the issuance of such bonds or offered as security therefor, then any holder or holders of such bonds and any such trustee under the trust indenture, if there be one, shall have the right by suit, action, mandamus or other proceeding instituted in the circuit court for the county or any of the counties wherein the district extends, or in any other court of competent jurisdiction, to enforce and compel performance of all duties required by this article or undertaken by the district in connection with the issuance of such bonds, and upon application of any such holder or holders, or such trustee, such court shall, upon proof of such defaults, appoint a receiver for the affairs of the district and its properties, which receiver so appointed shall forthwith directly, or by his agents and attorneys, enter into and upon and take possession of the affairs of the district and each and every part thereof, and hold, use, operate, manage and control the same, and in the name of the district exercise all of the rights and powers of such district as shall be deemed expedient, and such receiver shall have power and authority to collect and receive all revenues and apply same in such manner as the court shall direct. Whenever the default causing the appointment of such receiver shall have been cleared and fully discharged and all other defaults shall have been cured, the court may in its discretion and after such notice and hearing as it deems reasonable and proper direct the receiver to surrender possession of the affairs of the district to its board. Such receiver so appointed shall have no power to sell, assign, mortgage, or otherwise dispose of any assets of the district except as hereinbefore provided. (1953, c. 147.)

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

As to receivers, see Rule 66.

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

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

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

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

§ 16-13A-18. Operating contracts.

The board may enter into contracts or agreements with any persons, firms or corporations for the operation and management of the public service properties within the district, or any part thereof, for such period of time and under such terms and conditions as shall be agreed upon between the board and such persons, firms or corporations. The board shall have power to provide in the

resolution authorizing the issuance of bonds, or in any trust indenture securing such bonds, that such contracts or agreements shall be valid and binding upon the district as long as any of said bonds, or interest thereon, are outstanding and unpaid. (1953, c. 147.)

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

In any case where a public service district owns a water, sewer or gas system, and all the members of the public service board thereof deem it for the best interests of the district to sell, lease or rent such water, sewer or gas system to any municipality or privately owned water, sewer or gas system, or to any water, sewer or gas system owned by an adjacent public service district, the board may so sell, lease or rent such water, sewer or gas system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district, shall be ratably distributed to any persons who have made contributions in aid of construction of such water, sewer or gas system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water, sewer or gas system is located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81.)

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

There shall be and is hereby created a statutory mortgage lien upon such public service properties of the district, which shall exist in favor of the holders of bonds hereby authorized to be issued, and each of them, and the coupons attached to said bonds, and such public service properties shall remain subject to such statutory mortgage lien until payment in full of all principal of and interest on such bonds. Any holder of such bonds, of any coupons attached thereto, may, either at law or in equity, enforce said statutory mortgage lien conferred hereby and upon default in the payment of the principal of or interest on said bonds, may foreclose such statutory mortgage lien in the manner now provided by the laws of the State of West Virginia for the foreclosure of mortgages on real property. (1953, c. 147.)

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

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

§ 16-13A-20. Refunding revenue bonds.

The board of any district having issued bonds under the provisions of this article is hereby empowered thereafter by resolution to issue refunding bonds of such district for the purpose of retiring or refinancing such outstanding bonds, together with any unpaid interest thereon and redemption premium thereunto appertaining and all of the provisions of this article relating to the issuance, security and payment of bonds shall be applicable to such refunding bonds, subject, however, to the provisions of the proceedings which authorized the issuance of the bonds to be so refunded. (1953, c. 147.)

The only purpose for refunding bonds is the retirement or refinancing of outstanding bond issues of a particular district. Op. Att'y Gen., July 8, 1976.

Combination of two outstanding bond issues into one refunding bond issue may well be restricted by the use of the singular language in this section. Op. Att'y Gen., July 8, 1976.

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

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

This article is full and complete authority for the creation of public service districts and for carrying out the powers and duties of same as herein provided. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, are required in connection therewith except as may be prescribed by this article: Provided, That all functions, powers and duties of the public service commission of West Virginia, the bureau of public health, the division of environmental protection and the environmental quality board remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is a public instrumentality created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it are exempt from taxation by the state of West Virginia, and the other taxing bodies of the state: Provided, however, That the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147; 1986, c. 81; 1994, c. 61.)

Effect of amendment of 1994. — The amendment substituted "bureau of public health, the division of environmental protection and the environmental quality board" for "state department of health and the state water resources board"; deleted "declared" preceding "a public instrumentality"; and made stylistic changes.

Tax exemption constitutional. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McMillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955).

Applied in Rhodes v. Malden Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983).

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

All acts and proceedings taken by any county court of this State purporting to have been carried out under the provisions of this article which have been taken, prior to the date this section takes effect [January 29, 1960], for the purpose of creating public service districts or for the purpose of subsequent inclusion of additional territory to existing public service districts, after notice published by any such county court having territorial jurisdiction thereof of its intention to include such additional territory after hearing thereon, are hereby validated, ratified, approved and confirmed notwithstanding any other lack of power (other than constitutional) of any such county court to create such public service districts or to include additional territory to existing public service districts or irregularities (other than constitutional) in such proceedings, relating to the appointment and qualification of more than three members to the board of any such public service district or the subsequent appointment of successors of any or all of such members, notwithstanding that no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, and the appointment and qualification of such members, and further including any irregularities in the petition for the creation of any public service district, irregularities in the description of the area embraced by such district, and irregularities in the notice and publication of notice for the hearing creating such district, prior to the date this section takes effect, is hereby validated, ratified, approved and confirmed; and, further, in such cases where more than three members of the board of such districts have been so appointed prior to the date this section takes effect then such county court shall appoint, and they are hereby authorized and empowered to appoint, successors to such members in the manner as otherwise provided by this article. (1958, c. 14; 1960, c. 19.)

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

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

All acts and proceedings taken by any public service board the members of which were appointed, prior to the date this section takes effect [March 13, 1965], by any county court of this State having territorial jurisdiction thereof, are hereby validated, ratified, approved and confirmed, as to defects and irregularities which may otherwise exist on account of their appointment and qualification: Provided, however, That nothing herein contained shall be construed to excuse a criminal act. (1958, c. 14; 1960, c. 19; 1965, c. 134.)

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

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

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

Permissible borrowing by public service districts. — The borrowing by public service districts of money from counties and/or municipalities, as evidenced by a note, is permissible borrowing under this section. Op. Att'y Gen., May 6, 1988, No. 27.

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of sections thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article, without the prior consent and approval of the public service commission. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions

of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

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

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

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

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

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

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81.)

Cross references. — Class II legal advertisement defined, § 59-3-2.

Certificate of necessity and convenience. — Under this section, a public service district must first obtain a certificate of public convenience and necessity before it can acquire or construct public service property. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

Eminent domain not subject to public service commission review. — Although construction of a new facility proposed by a utility will often require the taking of private property through eminent domain, in the absence of express statutory language, the public service commission has no duty to review and decide issues that are inherent in the eminent domain proceeding. Sexton v. Public Serv. Comm'n, 188 W. Va. 305, 423 S.E.2d 914 (1992).

ARTICLE 13B.

COMMUNITY IMPROVEMENT ACT.

Sec.
16-13B-1. Short title.
16-13B-2. Definitions.
16-13B-3. Power and authority of counties and municipalities relating to flood relief, wastewater and water projects.
16-13B-4. Determination of need and feasibility of creating an assessment district.
16-13B-5. Notice to property owners before creation of assessment district and construction of project;

WEST VIRGINIA CODE

ANNOTATED

VOLUME 5A

1995 Replacement

1996 Cumulative Supplement

Including Acts passed during the 1996 Regular Session

Prepared by the Editorial Staff of the Publishers

Under the Supervision of

DEBORAH S. TUSSEY
PETER R. ROANE
RUTH P. KNIGHT
LYNN SEUFFERT

Place in pocket of corresponding bound volume

MICHIE
Law Publishers
CHARLOTTESVILLE, VIRGINIA
1996

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

Sec.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the secretary of state.
16-13A-25. Borrowing and bond issuance; procedure.

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

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

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

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

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

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

(c) When the county commission of any county enters an order on its own motion proposing the creation, enlargement, reduction, merger, dissolution or consolidation of a public service district, as aforesaid, or when a petition for the creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in the county on the creation, enlargement, reduction, merger, dissolution or consolidation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of the action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of the hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this code, and the publication area for the publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to the hearing.

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

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

(f) If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by enlargement, reduction, merger, dissolution or consolidation, it shall refuse to enter the order, but shall enter an order creating, enlarging, reducing, merging, dissolving or consolidating the area with an existing public service district, in accordance with rules adopted by the public service commission for such purpose: Provided, That no enlargement of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such enlarged service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, enlarging, reducing, merging, dissolving or consolidating the district: Provided, however, That within ten days after the entry of an order creating, enlarging, reducing, merging, dissolving or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules relating to such filings and the approval, disapproval or modification of county commission orders for creating, enlarging, merging, dissolving or consolidating districts. The provisions of this section shall not apply to the implementation by a county commission of an order issued by the public service commission pursuant to this section and section one-b [§ 16-13A-1b] of this article.

(g) The county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not

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

(h) A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1995, c. 125.)

Effect of amendment of 1995. — The amendment added the subsection designations; in (a), rewrote the former first sentence as the present first two sentences; inserted "enlargement, reduction, merger, dissolution or consolidation" following "creation" throughout (c), (d), and (e); inserted "enlarge, reduce, merge, dissolve or consolidate" twice in (e); rewrote (f); in (g), substituted "create" for "establish" in the first sentence, deleted "with like effect as if a district were being created" from the end of the second sentence, and substituted "enlargement" for "expansion" in the third sentence; and made stylistic changes.

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

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

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

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section

thirteen, twenty or twenty-four [§ 16-13A-13, § 16-13A-20 or § 16-13A-24] of this article, without the prior consent and approval of the public service commission. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

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

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

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

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

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

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

In the event of disapproval, the reasons for the disapproval shall be assigned in writing by the commission. (1969, 1st Ex. Sess., c. 6; 1981, c. 124; 1986, c. 81; 1996, c. 213.)

Effect of amendment of 1996. — The amendment, in the second paragraph, substituted "Thirty days" for "Sixty days" and inserted "public service" preceding the second occurrence of "district"; inserted "public service" in (d); and made stylistic changes.

ARTICLE 15.

STATE HOUSING LAW.

§ 16-15-3. City and county housing authorities created; when to transact business or exercise powers; determination of need for housing authority; resolution of governing body proof of establishment; appointment, term, expenses and removal of commissioners.

Tort Reform Act. — Where plaintiffs alleged violations of this section and §§ 16-15-7 and 16-15-17, and defendants claimed immunity from state tort claims pursuant to the West Virginia Governmental Tort Claim and Insurance Reform Act, § 29-12A-1 et seq., dismissal was granted where plaintiffs contended only that the federal claims were not affected by the state Tort Reform Act. Simmons v. Charleston Housing Auth., 881 F. Supp. 225 (S.D.W. Va. 1995).

§ 16-15-7. Authority a body corporate and politic; powers; investigations or examinations.

Tort Reform Act. — Where plaintiffs alleged violations of this section and §§ 16-15-3 and 16-15-17, and defendants claimed immunity from state tort claims pursuant to the West Virginia Governmental Tort Claim and Insurance Reform Act, § 29-12A-1 et seq., dismissal was granted where plaintiffs contended only that the federal claims were not affected by the state Tort Reform Act. Simmons v. Charleston Housing Auth., 881 F. Supp. 225 (S.D.W. Va. 1995).

§ 16-15-17. Policy of State as to rentals.

Tort Reform Act. — Where plaintiffs alleged violations of this section and §§ 16-15-3 and 16-15-7, and defendants claimed immunity from state tort claims pursuant to the West Virginia Governmental Tort Claim and Insurance Reform Act, § 29-12A-1 et seq., dismissal was granted where plaintiffs contended only that the federal claims were not affected by the state Tort Reform Act. Simmons v. Charleston Housing Auth., 881 F. Supp. 225 (S.D.W. Va. 1995).

ARTICLE 16.

HOUSING COOPERATION LAW.

§ 16-16-2. Declaration of purpose and necessity.

Legislative intent. — The legislature did not intend for § 37-6-30 to be read in pari materia with this section to establish a duty on behalf of a landlord to protect a tenant from the criminal conduct of a third party. Jack v. Fritts, 193 W. Va. 494, 457 S.E.2d 431 (1995).

BEFORE THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

IN RE: LOGAN COUNTY PUBLIC SERVICE DISTRICT

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

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

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

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

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

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

All of Logan County;

Excluding, however:

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

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

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

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

Done this the 20th day of June, 1975.

ENTER:

C. D. Dempsey

PRESIDENT

RESOLUTION

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

All of Logan County;

Excluding, however:

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

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

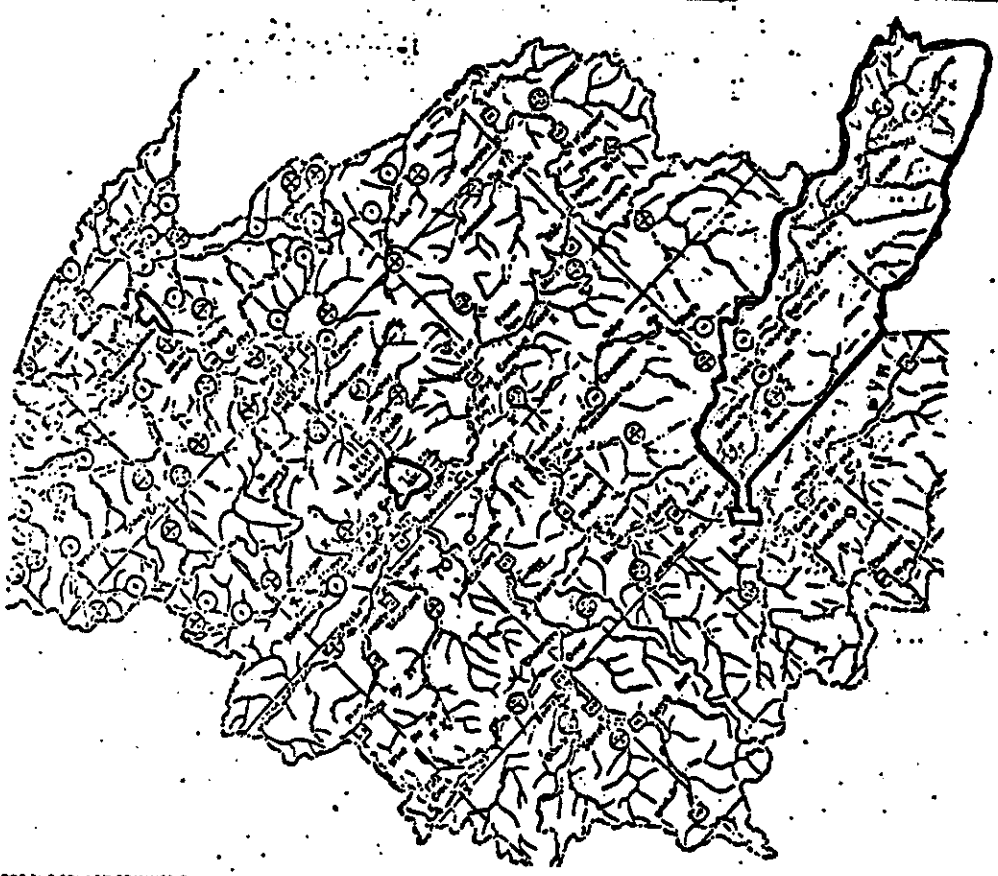
WHEREAS, the City Council of West Logan believes that the proposed public service district will be conducive to the preservation of the public health, comfort and convenience of the municipality of West Logan and all of Logan County;

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

Dated this 14th day of April, 1975.

Lennis L. Owens
Mayor

egals | 1 Legals | 1 Legals | 1 Legals



ORE THE COUNTY COMMISSION
LOGAN COUNTY, WEST VIRGINIA
IN RE: LOGAN COUNTY PUBLIC
FE DISTRICT

[illegible] that the Logan County [illegible] on the 5th of [illegible] hereby proposes the creation of [illegible] District to be known as the [illegible] Public Service District. The [illegible]

All of Logan County
Excluding however:
All of the municipality of Logan;
All of the municipality of Chap[illegible];
All of the municipality of Man;
All of the Buffalo Creek Public Service District of the Triadelphia Magisterial District of the County of Logan, West Virginia, more fully described as follows: Beginning at a point in the Spring Mountain Lookout Tower, said point being in the Boone Logan County line 4.75 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 degree 45' meridian line; thence, due West with 37 degree 45' meridian line 5.01 miles, more or less, to a point in the common corporate boundary line of City of Man; thence, due North, 1.45 miles, more or less, to a point in the Logan Triadelphia Magisterial District line; thence northeasterly with the meanders of said Magisterial line 15.95 miles, more or less, to the place of beginning and containing 43.91 square miles 137,870 acres), more or less.

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

The County Commission further proposes that the Bim Creek Public Service District hereinafore created by Order of the County Court of Logan County on the 5th day of February, 1972, the Cora Shamrock Valley View Public Service District created by Order of the County Court of Logan County, on the 5th day of March, 1972, and the Gilpin Public Service District hereinafore created by Order of the County Court of Logan County on the 9th day of October, 1972, shall be consolidated with and incorporated into the proposed Logan County Public Service District.

The County Commission further Orders [illegible]

[illegible] day of Sept. 1973

RESOLUTION

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

All of Logan County;

Excluding, however:

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

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

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

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

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

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

Dated this 3 day of SEPTEMBER, 1975.

David K. McAllister, Mayor

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

PRESIDENT

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT

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

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

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

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

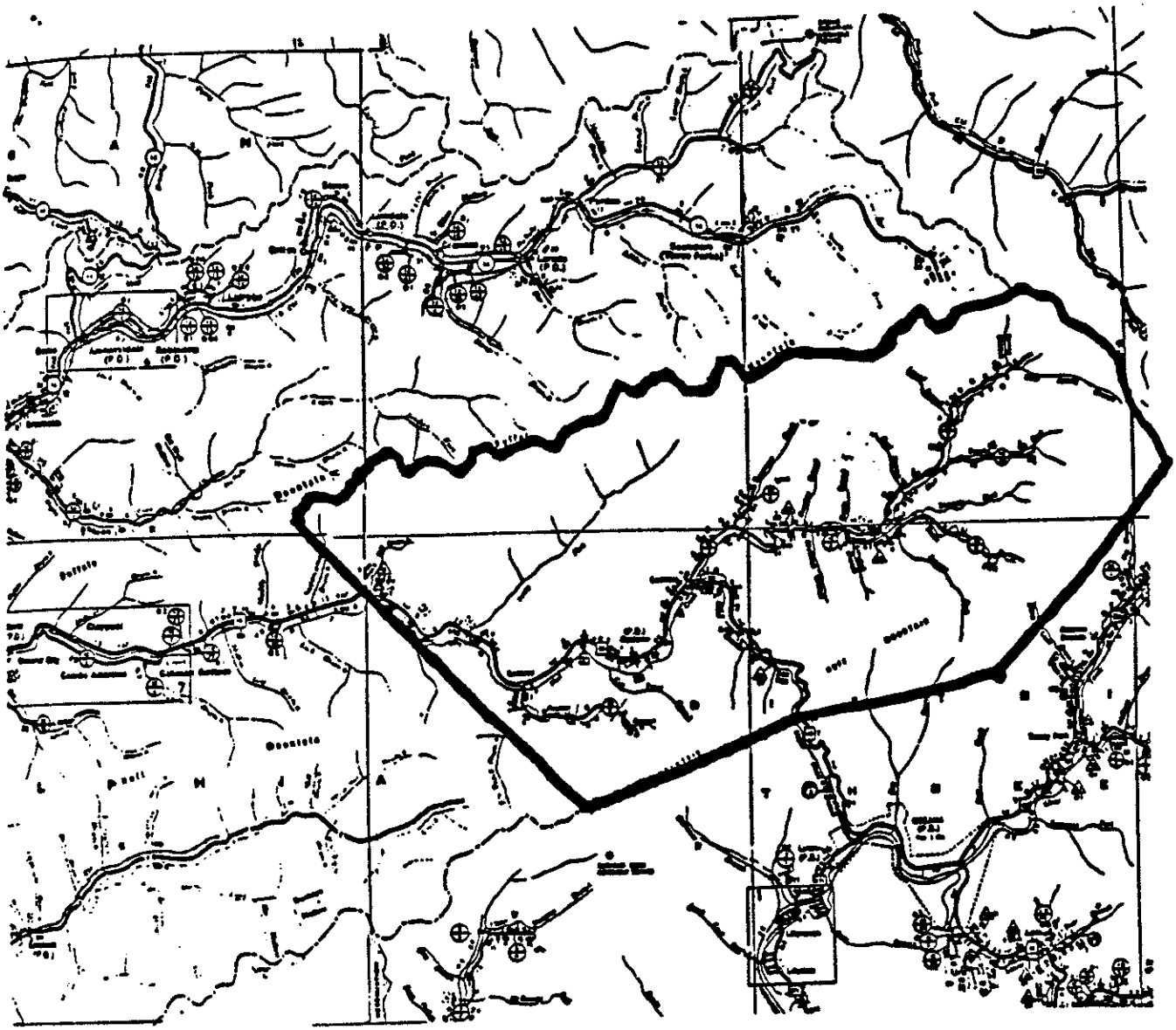
> Beginning at a point at the Logan and Wyoming County line at its intersection with West Virginia Route 10; thence, following said Logan and Wyoming line in a northwesterly direction approximately 6,400 feet, more or less, on said County line; thence, following the meanders of the Logan and Wyoming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

Boone County lines; thence, following the Wyoming and Boone County line in a southeasterly direction approximately 14,200 feet to a point on Huff Mountain having an elevation of 3,177 feet M.S.L.; thence, on a straight line in a southwesterly direction approximately 19,800 feet to a point known as Panther Knob; thence, on a straight line in a Westerly direction approximately 10,400 feet, more or less, to a point known as Upper Gap; thence, on a straight line in a southwesterly direction approximately 14,000 feet to a point located at the intersection of the Logan and Wyoming County lines; thence, following the Logan and Wyoming County line in a northwesterly direction approximately 19,600 feet, more or less, to the point of beginning. Said territory is more particularly shown on a map attached hereto and incorporated as a part herof and outline in black.

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

ENTERED this 5th day of May, 1994.

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



RESOLUTION

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

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

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

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

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

Dated this 5th day of April, 1994.

President

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

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

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

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

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

The transcript was filed on September 14, 1994.

FINDINGS OF FACT

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

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

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

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

CONCLUSION OF LAW

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

ORDER

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

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

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

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

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

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

Sunya Anderson
Administrative Law Judge

SA:mal

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA
RE: ENLARGEMENT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT

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

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

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

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

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

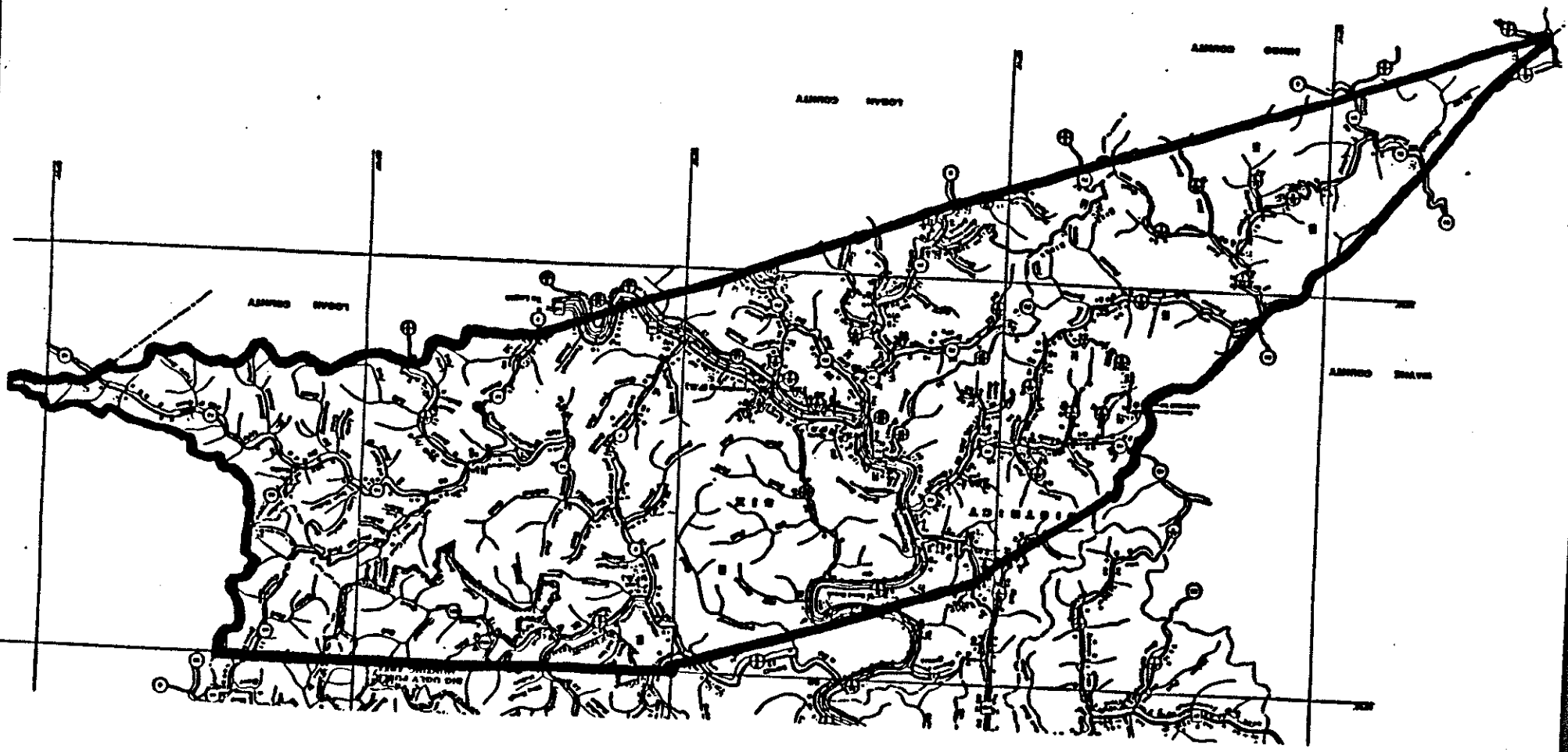
Logan County line; thence, following said Lincoln and Logan County line in a northeasternly direction approximately 84,450 feet, more or less, to its intersection with the Boone County line; thence, following said Lincoln and Boone County line in a northeasternly direction approximately 8,970 feet, more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

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

ENTERED this 7th day of November, 1994.

Mark S. Spurlock, M.D., PRESIDENT

LOGAN COUNTY COMMISSION



RESOLUTION

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

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

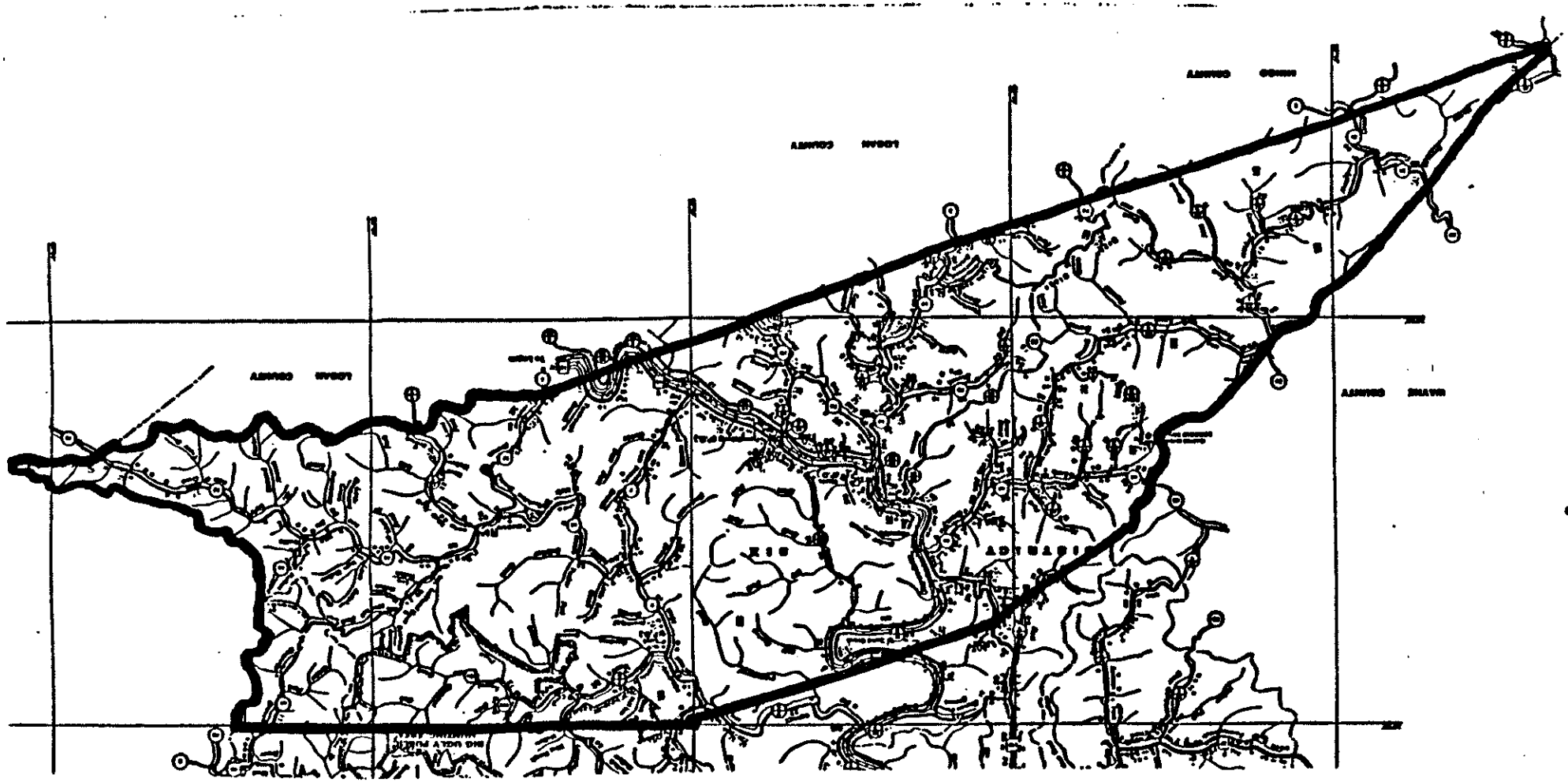
WHEREAS, previously on the 6th day of October, 1994, the County Commission of Lincoln County, West Virginia, adopted an order dissolving the Ranger-Harts Public Service District. THEREFORE, the area of Lincoln County to be included in Logan County Public Service District is not included within the boundaries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

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

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

Dated this 6th day of October, 1994.

President, Lincoln County Commission



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
5-3-95

Entered: April 13, 1995

CASE NO. 94-0889-PWD-PC

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

CASE NO. 94-1065-PWD-PC

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

RECOMMENDED DECISION

Case No. 94-0899-PWD-PC

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

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

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

Case No. 94-1065-PWD-PC

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

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT

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

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

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

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

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

CONCLUSION OF LAW

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

ORDER

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

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

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

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

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

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

Sunya Anderson
Administrative Law Judge

SA:mal

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

IN RE: REAPPOINTMENTS - LOGAN COUNTY PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, being cognizant that the terms of **BEN LOWE, JR.** and **JAMES R. JEFFREY** do expire this date on the **LOGAN COUNTY PUBLIC SERVICE DISTRICT** Board, upon respective motions duly made, seconded and passed, does reappoint Mr. Lowe and Mr. Jeffrey to new terms of six (6) years on the said Logan County Public Service District Board with said terms expiring January, 2002.

ENTERED this the 8th day of January, 1996.

Mark S. Spurlock, M. D.
President

Arthur E. Kirkendoll
Commissioner

Danny R. Godby
Commissioner

IN THE COUNTY COMMISSION OF LOGAN COUNTY, WEST VIRGINIA

IN RE: REAPPOINTMENT - LOGAN COUNTY
PUBLIC SERVICE DISTRICT

The County Commission of Logan County, West Virginia, being apprised that the term of Ms. Ann O'Briant does expire on this date on the LOGAN COUNTY PUBLIC SERVICE DISTRICT, hereby, upon motion duly made, seconded and passed, appoints Ms. O'Briant to another term of six (6) years on the said Logan County Public Service District said term to expire October 5, 2001.

ENTERED this the 5th day of October, 1995.

Mark S. Spurlock, M. D.
President

Arthur E. Kirkendoll
Commissioner

Danny R. Godby
Commissioner

STATE OF WEST VIRGINIA
WATER DEVELOPMENT AUTHORITY
1201 DUNBAR AVENUE
DUNBAR, WV 25064
Telephone (304) 558-3612
Telecopier (304) 558-0299

June 17, 1996

Mr. Rick Roberts
Logan County Public Service District
White & Browning Building, Suite 507
201½ Stratton Street
Logan WV 25601

BINDING COMMITMENT LETTER - LOAN

The West Virginia Infrastructure and Jobs Development Council (the "Council") has authorized the West Virginia Water Development Authority (the "Authority") to make this binding offer of a loan of approximately $1,980,000 for your water project to serve the Cow Creek area of Logan County (the "Project"). The loan will be subject to the terms set forth on Schedule A attached hereto and incorporated herein by reference. The final loan amount will be established after you have received bids for the Project. The Authority has set aside moneys in the Infrastructure Fund to make this loan upon your compliance with the program requirements. This commitment is good for 180 days from the date hereof. If you have not closed your loan or entered into a loan agreement by December 13, 1996, then this commitment shall expire.

The Council may, when justifiable circumstances occur, offer to extend the commitment expiration date. It should be understood by you that the offer to extend the time period is at the sole discretion of the Council.

The Authority will enter into a loan agreement with you following receipt of the completed Schedule B (the form of which is attached hereto); a final, nonappealable order from the Public Service Commission authorizing construction of the Project; evidence of binding commitments for other funding; evidence of all permits; evidence of acceptable bids; and the requisite bond-related documents and opinions in a form and substance satisfactory to the Authority. Following execution of the loan agreement, the Authority will establish a closing date, which

date shall be not less than ten business days following the execution by you of the loan agreement.

No statements or representations made before or after the issuance of this Binding Commitment Letter by any person, agent or employee of the Authority or member of the Council shall be construed as approval to alter or amend this Commitment, as all such amendments or alterations shall only be made in writing after approval of the Council.

If you have any questions regarding this commitment, please contact Susan J. Riggs or Daniel B. Yonkosky at (304) 558-3612.

Daniel B. Yonkosky

DANIEL B. YONKOSKY - DIRECTOR

Attachments

NOTE: This letter is sent in duplicate. Please acknowledge receipt on one copy and return it to the Authority immediately.

Logan County PSD
Governmental Agency

By: Rick Roberts, Rick Roberts
Its: Managing Engineer
Date: 6/19/96

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Logan County PSD
Water project to serve
the Cow Creek area

June 17, 1996

SCHEDULE A

Binding Commitment Term Sheet

A. Approximate Amount: $1,980,000.00

B. If Loan:

1. a. Interest Rate: 3%
   b. Maturity Date: 40 years from date of loan closing
   c. Debt Service Commencement Date: September 1, 1997

2. Special Conditions (if any)

_____

_____

C. If Grant:

1. a. Grant Advancement Date(s):
   b. Monthly Percentage:

2. Special Conditions (if any)

_____

NOTICE: The terms set forth above are subject to change following the Governmental Agency's receipt of construction bids.

D. Other Funding Sources:

a. Amount(s): AML grant - $4,240,222
b. Interest Rate:
c. Maturity Date:
d. Special Conditions: _____

E. Proposed User Rates

Average: $28.26/4500 gallons

IC/WDA-1
(July 1996)

LOAN AGREEMENT

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT
(Governmental Agency)

W I T N E S S E T H:

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

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

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

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

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

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

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

ARTICLE I

Definitions

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

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

1.3 "Consulting Engineers" means the professional engineer, licensed by the State, who shall not be a regular, full-time employee of the State or any of its agencies, commissions or political sub-divisions, and designated in the Application and any qualified successor thereto; provided, however, when a Loan is made for a Project financed, in part, by the Office of Abandoned Mine Lands, "Consulting Engineers" shall mean the West Virginia Division of Environmental Protection, or any successor thereto.

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or

other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and

all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

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

2.10 The Governmental Agency agrees that it will at all times provide operation and maintenance of the System to comply with any and all State and federal standards. The Governmental Agency agrees that qualified operating personnel properly certified by the State will be retained to operate the System during the entire term of this Loan Agreement.

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

2.12 The Governmental Agency, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, shall each month complete a Monthly Financial Report, the form of which is attached hereto as Exhibit C and incorporated herein by reference, and forward a copy by the 15th of each month to the Authority and Council.

ARTICLE III

Conditions to Loan;
Issuance of Local Bonds

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

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

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

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

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

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

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local

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

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

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

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

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

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

3.4 The Local Bonds shall be delivered to the Authority, at the offices of the Authority, on a date designated by the Governmental Agency by written notice to the

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

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

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by the gross or net revenues from the System, as more fully set forth in Schedules X and Y attached hereto;

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

amount required in any year for debt service on the Local Bonds and any such prior or parity obligations;

(iii) That the Governmental Agency will complete the Project and operate and maintain the System in good condition;

(iv) That, except as otherwise required by State law or with the written consent of the Council and the Authority, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Local Bonds outstanding, with further restrictions on the disposition of portions of the System as are normally contained in such covenants;

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

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

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

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement and that the Governmental Agency's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

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

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

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

(xv) That, as long as the Authority is the owner of any of the Local Bonds, the Governmental Agency may not redeem any Local Bonds by it without the written consent of the Authority and the Council and otherwise in compliance with this Loan Agreement;

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

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the State's general obligation bonds or any bonds secured by the Local Bonds;

(xviii) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached to the Loan Application, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority, the Project is adequate for the purposes for which it was designed and the funding plan as submitted to the Authority is sufficient to pay the costs of acquisition and construction of the Project;

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

(xx) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Code) from time to time as the Authority may request.

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

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

4.3 The principal of the Loan shall be repaid by the Governmental Agency on the days and in the years provided in Schedule X hereto. Interest payments on the Loan shall be made by the Governmental Agency on a quarterly basis as provided in said Schedule X.

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

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

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the State's general obligation bonds unless otherwise agreed to by the Council.

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the minimum sums set forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the interest rate of the installment of the Loan next due, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency,

the Authority may exercise any or all of the rights and powers granted under the Act and State law, including without limitation the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

6.3 Notwithstanding Section 6.2, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

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

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

ARTICLE VII

Miscellaneous

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

7.2 The Authority shall take all actions required by the Council in making and enforcing this Loan Agreement.

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

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

(ii) termination by the Authority pursuant to Section 6.1 hereof; or

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

7.9 The Authority acknowledges that certain terms and requirements in this Loan Agreement may not be applicable when the Project is financed in part by the West Virginia Division of Environmental Protection, Office of Abandoned Mine Lands and under that circumstance those terms and requirements are specifically waived or modified as agreed to by the Authority and set forth in the Local Act.

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT

(SEAL)

By: Mrs. Gen O'Brien
Its: Chairperson

Attest:

Date: July 31, 1996

Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: Daniel B. Yarborough
Director

Attest:

Date: July 31, 1996

Barbara B. Meadows
Secretary-Treasurer

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER PROJECT
$1,980,000 LOAN 3% Interest

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
9/01/1997	-	-	-	-
12/01/1997	6,799.00	3.00000%	14,850.00	21,649.00
3/01/1998	6,850.00	3.00000%	14,799.01	21,649.01
6/01/1998	6,902.00	3.00000%	14,747.63	21,649.63
9/01/1998	6,953.00	3.00000%	14,695.87	21,648.87
12/01/1998	7,006.00	3.00000%	14,643.72	21,649.72
3/01/1999	7,058.00	3.00000%	14,591.18	21,649.18
6/01/1999	7,111.00	3.00000%	14,538.24	21,649.24
9/01/1999	7,164.00	3.00000%	14,484.91	21,648.91
12/01/1999	7,218.00	3.00000%	14,431.18	21,649.18
3/01/2000	7,272.00	3.00000%	14,377.04	21,649.04
6/01/2000	7,327.00	3.00000%	14,322.50	21,649.50
9/01/2000	7,382.00	3.00000%	14,267.55	21,649.55
12/01/2000	7,437.00	3.00000%	14,212.19	21,649.19
3/01/2001	7,493.00	3.00000%	14,156.41	21,649.41
6/01/2001	7,549.00	3.00000%	14,100.21	21,649.21
9/01/2001	7,606.00	3.00000%	14,043.59	21,649.59
12/01/2001	7,663.00	3.00000%	13,986.55	21,649.55
3/01/2002	7,720.00	3.00000%	13,929.08	21,649.08
6/01/2002	7,778.00	3.00000%	13,871.18	21,649.18
9/01/2002	7,836.00	3.00000%	13,812.84	21,648.84
12/01/2002	7,895.00	3.00000%	13,754.07	21,649.07
3/01/2003	7,954.00	3.00000%	13,694.86	21,648.86
6/01/2003	8,014.00	3.00000%	13,635.20	21,649.20
9/01/2003	8,074.00	3.00000%	13,575.10	21,649.10
12/01/2003	8,135.00	3.00000%	13,514.54	21,649.54
3/01/2004	8,196.00	3.00000%	13,453.53	21,649.53
6/01/2004	8,257.00	3.00000%	13,392.06	21,649.06
9/01/2004	8,319.00	3.00000%	13,330.13	21,649.13
12/01/2004	8,381.00	3.00000%	13,267.74	21,648.74
3/01/2005	8,444.00	3.00000%	13,204.88	21,648.88
6/01/2005	8,508.00	3.00000%	13,141.55	21,649.55
9/01/2005	8,571.00	3.00000%	13,077.74	21,648.74
12/01/2005	8,636.00	3.00000%	13,013.46	21,649.46
3/01/2006	8,701.00	3.00000%	12,948.69	21,649.69
6/01/2006	8,766.00	3.00000%	12,883.43	21,649.43
9/01/2006	8,832.00	3.00000%	12,817.69	21,649.69
12/01/2006	8,898.00	3.00000%	12,751.45	21,649.45
3/01/2007	8,965.00	3.00000%	12,684.71	21,649.71
6/01/2007	9,032.00	3.00000%	12,617.48	21,649.48
9/01/2007	9,099.00	3.00000%	12,549.74	21,648.74
12/01/2007	9,168.00	3.00000%	12,481.49	21,649.49
3/01/2008	9,236.00	3.00000%	12,412.73	21,648.73
6/01/2008	9,306.00	3.00000%	12,343.46	21,649.46
9/01/2008	9,376.00	3.00000%	12,273.67	21,649.67

Ferris, Baker Watts, Inc
Public Finance Department

FILE = NEWFILE
7/24/1996 10:15 AM

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER PROJECT
$1,980,000 LOAN 3% interest

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
12/01/2008	9,446.00	3.00000%	12,203.35	21,649.35
3/01/2009	9,517.00	3.00000%	12,132.50	21,649.50
6/01/2009	9,588.00	3.00000%	12,061.13	21,649.13
9/01/2009	9,660.00	3.00000%	11,989.22	21,649.22
12/01/2009	9,732.00	3.00000%	11,916.77	21,648.77
3/01/2010	9,805.00	3.00000%	11,843.78	21,648.78
6/01/2010	9,879.00	3.00000%	11,770.24	21,649.24
9/01/2010	9,953.00	3.00000%	11,696.15	21,649.15
12/01/2010	10,028.00	3.00000%	11,621.50	21,649.50
3/01/2011	10,103.00	3.00000%	11,546.29	21,649.29
6/01/2011	10,179.00	3.00000%	11,470.52	21,649.52
9/01/2011	10,255.00	3.00000%	11,394.17	21,649.17
12/01/2011	10,332.00	3.00000%	11,317.26	21,649.26
3/01/2012	10,409.00	3.00000%	11,239.77	21,648.77
6/01/2012	10,488.00	3.00000%	11,161.70	21,649.70
9/01/2012	10,566.00	3.00000%	11,083.04	21,649.04
12/01/2012	10,645.00	3.00000%	11,003.80	21,648.80
3/01/2013	10,725.00	3.00000%	10,923.96	21,648.96
6/01/2013	10,806.00	3.00000%	10,843.52	21,649.52
9/01/2013	10,887.00	3.00000%	10,762.48	21,649.48
12/01/2013	10,968.00	3.00000%	10,680.83	21,648.83
3/01/2014	11,051.00	3.00000%	10,598.57	21,649.57
6/01/2014	11,134.00	3.00000%	10,515.68	21,649.68
9/01/2014	11,217.00	3.00000%	10,432.18	21,649.18
12/01/2014	11,301.00	3.00000%	10,348.05	21,649.05
3/01/2015	11,386.00	3.00000%	10,263.29	21,649.29
6/01/2015	11,471.00	3.00000%	10,177.90	21,648.90
9/01/2015	11,557.00	3.00000%	10,091.87	21,648.87
12/01/2015	11,644.00	3.00000%	10,005.19	21,649.19
3/01/2016	11,731.00	3.00000%	9,917.86	21,648.86
6/01/2016	11,819.00	3.00000%	9,829.88	21,648.88
9/01/2016	11,908.00	3.00000%	9,741.23	21,649.23
12/01/2016	11,997.00	3.00000%	9,651.92	21,648.92
3/01/2017	12,087.00	3.00000%	9,561.95	21,648.95
6/01/2017	12,178.00	3.00000%	9,471.29	21,649.29
9/01/2017	12,269.00	3.00000%	9,379.96	21,648.96
12/01/2017	12,361.00	3.00000%	9,287.94	21,648.94
3/01/2018	12,454.00	3.00000%	9,195.23	21,649.23
6/01/2018	12,547.00	3.00000%	9,101.83	21,648.83
9/01/2018	12,642.00	3.00000%	9,007.73	21,649.73
12/01/2018	12,736.00	3.00000%	8,912.91	21,648.91
3/01/2019	12,832.00	3.00000%	8,817.39	21,649.39
6/01/2019	12,928.00	3.00000%	8,721.15	21,649.15
9/01/2019	13,025.00	3.00000%	8,624.19	21,649.19
12/01/2019	13,123.00	3.00000%	8,526.50	21,649.50

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER PROJECT
$1,980,000 LOAN 3% interest

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
3/01/2020	13,221.00	3.00000%	8,428.08	21,649.08
6/01/2020	13,320.00	3.00000%	8,328.92	21,648.92
9/01/2020	13,420.00	3.00000%	8,229.02	21,649.02
12/01/2020	13,521.00	3.00000%	8,128.37	21,649.37
3/01/2021	13,622.00	3.00000%	8,026.97	21,648.97
6/01/2021	13,724.00	3.00000%	7,924.80	21,648.80
9/01/2021	13,827.00	3.00000%	7,821.87	21,648.87
12/01/2021	13,931.00	3.00000%	7,718.17	21,649.17
3/01/2022	14,036.00	3.00000%	7,613.69	21,649.69
6/01/2022	14,141.00	3.00000%	7,508.42	21,649.42
9/01/2022	14,247.00	3.00000%	7,402.36	21,649.36
12/01/2022	14,354.00	3.00000%	7,295.51	21,649.51
3/01/2023	14,461.00	3.00000%	7,187.85	21,648.85
6/01/2023	14,570.00	3.00000%	7,079.39	21,649.39
9/01/2023	14,679.00	3.00000%	6,970.12	21,649.12
12/01/2023	14,789.00	3.00000%	6,860.03	21,649.03
3/01/2024	14,900.00	3.00000%	6,749.11	21,649.11
6/01/2024	15,012.00	3.00000%	6,637.36	21,649.36
9/01/2024	15,124.00	3.00000%	6,524.77	21,648.77
12/01/2024	15,238.00	3.00000%	6,411.34	21,649.34
3/01/2025	15,352.00	3.00000%	6,297.05	21,649.05
6/01/2025	15,467.00	3.00000%	6,181.91	21,648.91
9/01/2025	15,583.00	3.00000%	6,065.91	21,648.91
12/01/2025	15,700.00	3.00000%	5,949.04	21,649.04
3/01/2026	15,818.00	3.00000%	5,831.29	21,649.29
6/01/2026	15,937.00	3.00000%	5,712.65	21,649.65
9/01/2026	16,056.00	3.00000%	5,593.13	21,649.13
12/01/2026	16,177.00	3.00000%	5,472.71	21,649.71
3/01/2027	16,298.00	3.00000%	5,351.38	21,649.38
6/01/2027	16,420.00	3.00000%	5,229.14	21,649.14
9/01/2027	16,543.00	3.00000%	5,105.99	21,648.99
12/01/2027	16,667.00	3.00000%	4,981.92	21,648.92
3/01/2028	16,792.00	3.00000%	4,856.92	21,648.92
6/01/2028	16,918.00	3.00000%	4,730.98	21,648.98
9/01/2028	17,045.00	3.00000%	4,604.09	21,649.09
12/01/2028	17,173.00	3.00000%	4,476.26	21,649.26
3/01/2029	17,302.00	3.00000%	4,347.46	21,649.46
6/01/2029	17,432.00	3.00000%	4,217.69	21,649.69
9/01/2029	17,562.00	3.00000%	4,086.95	21,648.95
12/01/2029	17,694.00	3.00000%	3,955.24	21,649.24
3/01/2030	17,827.00	3.00000%	3,822.53	21,649.53
6/01/2030	17,960.00	3.00000%	3,688.83	21,648.83
9/01/2030	18,095.00	3.00000%	3,554.13	21,649.13
12/01/2030	18,231.00	3.00000%	3,418.42	21,649.42
3/01/2031	18,368.00	3.00000%	3,281.69	21,649.69

Ferris, Baker Watts, Inc
Public Finance Department

FILE = NEWFILE
7/24/1996 10:15 AM

LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER PROJECT
$1,980,000 LOAN 3% interest

DEBT SERVICE SCHEDULE

DATE	PRINCIPAL	COUPON	INTEREST	DEBT SERVICE
6/01/2031	18,505.00	3.00000%	3,143.93	21,648.93
9/01/2031	18,644.00	3.00000%	3,005.14	21,649.14
12/01/2031	18,784.00	3.00000%	2,865.31	21,649.31
3/01/2032	18,925.00	3.00000%	2,724.43	21,649.43
6/01/2032	19,067.00	3.00000%	2,582.49	21,649.49
9/01/2032	19,210.00	3.00000%	2,439.49	21,649.49
12/01/2032	19,354.00	3.00000%	2,295.41	21,649.41
3/01/2033	19,499.00	3.00000%	2,150.26	21,649.26
6/01/2033	19,645.00	3.00000%	2,004.02	21,649.02
9/01/2033	19,793.00	3.00000%	1,856.68	21,649.68
12/01/2033	19,941.00	3.00000%	1,708.23	21,649.23
3/01/2034	20,091.00	3.00000%	1,558.67	21,649.67
6/01/2034	20,241.00	3.00000%	1,407.99	21,648.99
9/01/2034	20,393.00	3.00000%	1,256.18	21,649.18
12/01/2034	20,546.00	3.00000%	1,103.24	21,649.24
3/01/2035	20,700.00	3.00000%	949.14	21,649.14
6/01/2035	20,855.00	3.00000%	793.89	21,648.89
9/01/2035	21,012.00	3.00000%	637.48	21,649.48
12/01/2035	21,169.00	3.00000%	479.89	21,648.89
3/01/2036	21,328.00	3.00000%	321.12	21,649.12
6/01/2036	21,488.00	3.00000%	161.16	21,649.16
TOTAL	1,980,000.00	-	1,375,627.56	3,355,627.56

Ferris, Baker Watts, Inc
Public Finance Department

FILE = NEWFILE
7/24/1996 10:15 AM

YIELD STATISTICS

Accrued Interest from 09/01/1997 to 09/01/1997...	-
Average Life.....	23.159 YEARS
Bond Years.....	45,854.25
Average Coupon.....	3.0000000%
Net Interest Cost (NIC).....	3.0000000%
Bond Yield for Arbitrage Purposes.....	3.0112503%
True Interest Cost (TIC).....	3.0112500%
Effective Interest Cost (EIC).....	3.0112503%

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____
(Issuer)

_____
(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers, _____, _____, hereby certify that my firm is engineer for the acquisition and construction of _____ to the _____ _____ system (herein called the "Project") of _____ (the "Issuer") to be constructed primarily in ___ County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the _____ passed by the ____ of the Issuer on _____, 19_, effective ___, 19_, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority") dated _____, 19_.

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

2. The undersigned hereby certifies that (i) the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least _____ years, (iii) the Issuer has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application and my firm has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified by my firm for accuracy, (iv) the Issuer has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (v) the rates and charges for the System as adopted by the ____ of the Issuer are sufficient to comply with the provisions of Subsection 4.1(b)(ii) of the Loan Agreement, (vi) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the Application, and (vii) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this __ day of ____, 19_.

_____

By: _____

West Virginia License No. _____

[SEAL]

EXHIBIT B

[Opinion of Bond Counsel for Governmental Agency]

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
c/o West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement dated _____, 19__, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a series of revenue bonds of the Governmental Agency, dated _____, 19_ (the "Local Bonds"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bonds are in the principal amount of $_____, issued in the form of one bond registered as to principal and interest to the Authority, with interest and principal payable in installments on September 1, December 1, March 1 and June 1 of each year, beginning December 1, 1997, at the rate as set forth in Exhibit A incorporated in and made a part of the Bonds.

The Local Bonds are issued for the purpose of _____ and paying certain issuance and other costs in connection therewith.

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

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

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

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

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

4. The Governmental Agency has legally and effectively enacted the Local Act and all other necessary _____ in connection with the issuance and sale of the Local Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the [net] revenues of the System referred to in the Local Act and secured by a [first] lien on and pledge of the [net] revenues of said System, all in accordance with the terms of the Local Bonds and the Local Act, and have been duly issued and delivered to the Authority.

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

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

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

Very truly yours,

EXHIBIT C

Monthly Financial Report

_____
[Name of Governmental Agency]

_____
_____
[Name of Bond Issue]

Fiscal Year - __

Report Month: _____

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

Witnesseth my signature this __ day of ____, 19_.

[Name of Governmental Agency]

By: _____
Authorized Officer

CHASFS3:45760

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

EXCERPT OF MINUTES

I, Jim Jeffrey, Secretary to the Logan County Public Service Board (the "Board") of the Logan County Public Service District (the "District"), hereby certify that the following is a true and correct excerpt of the minutes of the organizational meeting of the said Board.

The Board met at its regular meeting, pursuant to notice duly given, published and posted, on the 18th day of January, 1996, at the Logan County Courthouse, Logan, West Virginia, at 7:00 p.m., prevailing time.

The Chairperson announced that a quorum of members was present.

The following officers were elected to serve on the Logan County PSD Board for 1996:

Ann O'Briant, Chair
James R. Jeffrey, Secretary
Ben F. Lowe, Jr., Treasurer

I hereby certify that the foregoing action of said Board remains in full force and effect and has not been amended or appealed.

WITNESS my signature on this 31st day of July, 1996.

[SEAL]

Secretary, Logan County Public Service District

45885

$1,980,000 LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B

BOND RESOLUTION

$1,980,000 LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 1996 B

BOND RESOLUTION

Table of Contents

Subject		Page
ARTICLE I - STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS		
Section 1.01	Definitions	1
Section 1.02	Authority for this Resolution	10
Section 1.03	Findings	10
Section 1.04	Resolution Constitutes Contract	12
ARTICLE II - AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT		
Section 2.01	Authorization of Construction and Acquisition of the Project	13
ARTICLE III - AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT		
Section 3.01	Authorization of Bonds	14
Section 3.02	Terms of Bonds	14
Section 3.03	Additional Terms of Series 1996 B Bonds	14
Section 3.04	Execution of Bonds	15
Section 3.05	Authentication and Registration	15
Section 3.06	Negotiability, Transfer and Registration	15
Section 3.07	Bonds Mutilated, Destroyed, Stolen or Lost	16
Section 3.08	Bonds not to be Indebtedness of the Issuer	16
Section 3.09	Bonds Secured by Pledge of Net Revenues	16
Section 3.10	Form of Bonds	17

Subject		Page
Section 3.11	Sale of Bonds; Ratification and Execution of Loan Agreement with Authority	26
Section 3.12	"Amended Schedule A"	26
ARTICLE IV - [RESERVED]		27
ARTICLE V - SYSTEM REVENUES AND APPLICATION THEREOF		
Section 5.01	Establishment of Funds and Accounts with Depository Bank	28
Section 5.02	Establishment of Funds and Accounts with Commission	28
Section 5.03	System Revenues; Flow of Funds	28
ARTICLE VI - APPLICATION OF BONDS PROCEEDS		
Section 6.01	Application of Bonds Proceeds; Pledge of Unexpended Bonds Proceeds	33
Section 6.02	Disbursements to and from the Construction Trust Fund	33
Section 6.03	Excess Bond Proceeds	34
ARTICLE VII - ADDITIONAL COVENANTS OF THE ISSUER		
Section 7.01	General Covenants of the Issuer	35
Section 7.02	Bonds, Not to be Indebtedness of the Issuer	35
Section 7.03	Bonds Secured by Pledge of Net Revenues; Lien Position	35
Section 7.04	Initial Schedule of Rates and Charges	35
Section 7.05	Real Estate and Real Estate Interests	35
Section 7.06	Sale of the System	36
Section 7.07	Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances	37
Section 7.08	Parity Bonds	37
Section 7.09	Books; Records and Facilities	40
Section 7.10	Rates	40
Section 7.11	Operating Budget and Audit	42

Subject		Page
Section 7.12	No Competing Franchise	42
Section 7.13	Enforcement of Collections	42
Section 7.14	No Free Services	43
Section 7.15	Insurance	43
Section 7.16	Engineering Services and Operating Personnel	44
Section 7.17	Completion of Project; Permits and Orders	44
Section 7.18	Reserved	45
Section 7.19	Tax Covenants	45
Section 7.20	Statutory Mortgage Lien	45
Section 7.21	Compliance with Loan Agreement and Law	45
Section 7.22	PSC Order	46

ARTICLE VIII - INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01	Investments	47
Section 8.02	Arbitrage	47
Section 8.03	Rebate of Excess Investment Earnings to the United States	48

ARTICLE IX - DEFAULT AND REMEDIES

Section 9.01	Events of Default	52
Section 9.02	Remedies	52
Section 9.03	Appointment of Receiver	52

ARTICLE X - DEFEASANCE

Section 10.01	Defeasance of Bonds	54

ARTICLE XI - MISCELLANEOUS

Section 11.01	Amendment or Modification of Resolution	55
Section 11.02	Resolution Constitutes Contract	55
Section 11.03	Severability of Invalid Provisions	55
Section 11.04	Headings, Etc.	55
Section 11.05	Conflicting Provisions Repealed; Prior Resolutions	55
Section 11.06	Covenant of Due Procedure, Etc.	55
Section 11.07	Effective Date	56

EXHIBIT A --	Description of Project
EXHIBIT B --	Schedule of Rates

BOND RESOLUTION

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 $1,980,000 IN AGGREGATE PRINCIPAL AMOUNT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID 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:

"AML Funding" means the funding from the Abandoned Mine Lands program as administered by the West Virginia Division of Environmental Protection.

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

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any other person duly appointed as such by the Governing Body.

"Board" or "Governing Body" means the public service board of the Issuer and shall include the membership of the Board as may hereafter be duly constituted as the legal successors to the present membership or any other authority vested with and authorized to exercise the powers of the Issuer.

"Bond 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.

"Bondholders" "Holder of the Bonds," "Holder," "Registered Owner," "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.

"Bond Register" means the books of the Issuer as hereinafter defined, maintained by the Bond Registrar as hereinafter defined for the registration and transfer of the Bonds.

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

"Bonds" means the Series 1996 B Bonds originally authorized hereby, the Prior Bonds and any pari passu additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution or another resolution.

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

"Certificate of Authentication and Registration" means the certificate of authentication and registration on the Bonds in substantially the form set forth in the Bond Forms contained herein.

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

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing more than a de minimus amount of the purchase price of the Bonds.

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

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

"Construction Trust Fund" means the Series 1996 B Bonds Construction Trust Fund established by Section 5.01.

"Consulting Engineer" or "Consulting Engineers" means during the construction of the Project either the West Virginia Division of Environmental Protection, or any successor thereto or the Managing Engineer as is specifically set forth in the MOU, and after the completion of the Project the Managing Engineer.

"Costs" or "Costs of the Project" or any similar phrase means those costs described in Section 1.03G hereof to be a part of the cost of construction and acquisition of the Project.

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

"Council Act" means Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of the adoption of this Resolution.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Series 1996 B Bonds, as hereinafter defined, during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"DEP" means the West Virginia Division of Environmental Protection, a division of the West Virginia Bureau of Environment.

"Depository Bank" means Bank One, West Virginia, National Association, Logan, a bank eligible under the laws of the State of West Virginia to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined and any successor thereto.

"Excess Investment Earnings" means an amount equal to the sum of:

(A) The excess of

(i) The aggregate amount earned from the Closing Date on all Nonpurpose Investments in which Gross Proceeds of the Series 1996 B Bonds are invested [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings], over

(ii) The amount that would have been earned if the Yield on such Nonpurpose Investments [other than amounts attributable to an excess described in this clause (A) of this definition of Excess Investment Earnings] had been equal to the Yield on the Series 1996 B Bonds, plus

(B) Any income attributable to the excess described in clause (A) of this definition of Excess Investment Earnings.

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

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

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

"Gross Proceeds" means the sum of the following amounts:

(i) Original proceeds, namely, net amounts received by or for the Issuer as a result of the sale of the Series 1996 B Bonds, excluding original proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1996 B Bonds;

(ii) Investment proceeds, namely, amounts received at any time by or for the Issuer, such as interest and dividends, resulting from the investment of any original proceeds (as referenced in clause (i) above) or investment proceeds (as referenced in this clause (ii)) in Nonpurpose Investments, increased by any profits and decreased (if necessary, below zero) by any losses on such investments, excluding investment proceeds which become transferred proceeds (determined in accordance with applicable Regulations) of obligations issued to refund in whole or in part the Series 1996 B Bonds;

(iii) Transferred proceeds, namely, original proceeds of any prior obligations, and interest earnings and profits less losses resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any prior obligations and which are deemed to become proceeds of the Series 1996 B Bonds ratably as original proceeds of the Series 1996 B Bonds, and interest earnings and profits

resulting from investment of such original proceeds in Nonpurpose Investments, which are used to discharge the outstanding principal of any such prior obligations, all on the date of such ratable discharge;

(iv) Sinking fund proceeds, namely, amounts, other than original proceeds, investment proceeds or transferred proceeds [as referenced in clauses (i) through (iii) above] of the Series 1996 B Bonds, which are held in any fund to the extent that the Issuer reasonably expects to use such other fund to pay Debt Service;

(v) Amounts in the Series 1996 B Bonds and in any other fund established as a reasonably required reserve or replacement fund;

(vi) Investment Property pledged as security for payment of Debt Service on the Series 1996 B Bonds by the Issuer;

(vii) Amounts, other than as specified in this definition, used to pay Debt Service on the Series 1996 B Bonds; and

(viii) Amounts received as a result of investing amounts described in this definition.

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

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

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract or investment-type property, excluding, however, obligations the interest on which is excluded from gross income under Section 103 of the Code for federal income tax purposes.

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

"Loan Agreement" means the Loan Agreement or Loan Agreements to be entered into between the Authority and the Issuer, pursuant to which the Authority shall agree, subject to the Issuer's satisfying certain engineering, legal and other requirements, to purchase the Series 1996 B Bonds.

"Managing Engineer" means the managing engineer of the Issuer or any successor thereto.

"MOU" means the Memorandum of Understanding entered into between DEP and the Issuer dated January 25, 1996, setting forth the terms and conditions under which the Project shall be accomplished.

"Net Proceeds" means the face amount of the Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the respective Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property which is acquired with the Gross Proceeds of the Series 1996 B Bonds and is not acquired in order to carry out the governmental purpose of the Series 1996 B Bonds.

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

"Outstanding," when used with reference to Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (i) any Bond cancelled by the Bond Registrar at or prior to said date; (ii) any Bond for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder and

set aside for such payment (whether upon or prior to maturity); (iii) any Bond deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents, notices or other action by a specified percentage of Bondholders, any Bonds registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.08 hereof.

"Paying Agent" means the Commission.

"Prior Bonds" means the Water Revenue Bonds (Neibert-Taplan Extension Project), Series 1991 A, issued in the original aggregate amount of $400,000; the Water Revenue Bonds (J. C. Evans Project), Series 1992 A, issued in the original aggregate amount of $1,400,000; the Water Refunding and Improvement Revenue Bonds (Greenville Project), Series 1993 A, issued in the original aggregate amount of $781,540.78; the Water Revenue Bonds (Upper Rum Creek Project), Series 1994 A, issued in the original aggregate amount of $120,000; the Water Revenue Bonds (Upper Crooked Creek Project), Series 1994 B, issued in the original aggregate amount of $170,000; the Water Revenue Bonds (Dingess Run), Series 1995 A, issued in the aggregate amount of $400,000 and the Water Revenue Bonds (Trace Fork/Big Creek Water Project), Series 1996A, issued in the aggregate amount of $420,000.

"Prior Resolutions" means resolutions of the Issuer authorizing the Prior Bonds adopted on: July 1, 1991; November 4, 1992; October 4, 1993; March 8, 1994; November 15, 1995; and March 11, 1996.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Project" means the acquisition and construction of the water distribution system by the Issuer substantially as described in Exhibit A attached hereto and incorporated herein by reference.

"PSC" means the Public Service Commission of West Virginia and any successors to the functions thereof.

"PSC Order" means the Recommended Decision of the PSC in Case No. 95-1026-PWD-CN which was entered and became the Final Order on May 22, 1996 as amended by the Final Order issued July 9, 1996.

"Purchase Price," for the purpose of computation of the Yield of the Series 1996 B Bonds, has the same meaning as the term "Issue Price" in Sections 1273(b) and 1274 of the Code and, in general, means the initial offering price of the Series 1996 B Bonds to the public (not including bond houses and brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of the Series 1996 B Bonds of each maturity is sold or, if the Series 1996 B Bonds are privately placed, the price paid by the first buyer of the Series 1996 B Bonds or the acquisition costs of the first buyer. Purchase Price for purposes of computing Yield of Nonpurpose Investments means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Series 1996 B Bonds for acquisition thereof or, if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Series 1996 B Bonds.

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

(a) Government Obligations;

(b) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; the Governmental National Mortgage Association; the Tennessee Valley Authority or the Washington Metropolitan Area Transit Authority;

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

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

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

(f) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (d) above, with banks or national banking associations which are members of FDIC or with government bond dealers

recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of paid repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(g) The "consolidated fund" (or any distinct portion thereof) managed by the West Virginia State Board of Investments pursuant to Article 6, Chapter 12 of the Code of West Virginia, 1931, as amended; and

(h) Advance-Refunded Municipal Bonds.

"Rebate Fund" means the fund created pursuant to Section 8.02 hereof.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolutions and referenced in Section 5.01.

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

"Revenue Fund" means the Revenue Fund established by the Prior Resolutions and referenced in Section 5.01.

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

"Series 1996 B Bonds" means the not more than $1,980,000 in aggregate principal amount of Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B, of the Issuer originally authorized hereby.

"Series 1996 B Bonds Reserve Account" means the Series 1996 B Bonds Reserve Account established in the Series 1996 B Bonds Sinking Fund pursuant to Section 5.02(1)(a).

"Series 1996 B Bonds Reserve Requirement" means as of any date of calculation the maximum amount of principal and interest which will become due on the Series 1996 B Bonds in the then current or any succeeding year.

"Series 1996 B Bonds Sinking Fund" means Series 1996 B Bonds Sinking Fund established by Section 5.02(1).

"State" means the State of West Virginia.

"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 Bonds, the Prior Bonds or any other obligations of the Issuer, including but not limited to the Renewal and Replacement Fund, the Reserve Accounts and Sinking Funds, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the complete waterworks system of the Issuer, and any further improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

"Yield" means that yield which, when used in computing the present worth of all payments of principal and interest (or other payments in the case of Nonpurpose Investments which require payments in a form not characterized as principal and interest) on a Nonpurpose Investment or on the Series 1996 B Bonds, produces an amount equal to the Purchase Price of such Nonpurpose Investment or the Bonds, all computed as prescribed in applicable Regulations.

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

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

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

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

Section 1.02. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

Section 1.03. Findings. It is hereby found, determined and declared as follows:

A. The Issuer is a public corporation and political subdivision of the State located in Logan County, West Virginia and presently owns and operates a public water distribution system. Certain areas of the Issuer are currently without public water service and it is deemed necessary and desirable for the health and welfare of the inhabitants of the

Issuer that there be constructed certain extensions and improvements to the System of the Issuer, consisting of the Project under the plans and specifications prepared by the Consulting Engineer, which plans and specifications have heretofore been filed with the Issuer.

B. The Council has approved the Project and has authorized the Authority to make a loan to the Issuer in an amount not to exceed $1,980,000 to provide the local funds to match the AML Funding.

C. The Issuer has entered into the MOU to provide the funding for the Project.

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 the costs of the operation and maintenance of the System, the principal of and interest on the Prior Bonds, the Series 1996 B Bonds and all sinking funds, reserve accounts and other payments provided for herein, in the Prior Resolutions and in the PSC Order.

E. The estimated maximum cost of the construction and acquisition of the Project is $5,673,000, of which approximately $1,980,000 will be permanently obtained from the Bonds herein authorized and the remainder to be obtained from the AML Funding. The Issuer may obtain grants and contributions as may be necessary to pay Cost of Project.

F. There are currently outstanding obligations of the Issuer which will rank on parity with the Series 1996 B Bonds as to lien, pledge, source and security for payment, being the Prior Bonds. The Issuer has met the parity test requirements set forth in the Prior Resolutions and has received the certificate of an independent certified public accountant stating that the Prior Resolutions' parity test has been met.

G. It is deemed necessary for the Issuer to issue its revenue bonds, being the Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B in the aggregate principal amount of not more than $1,980,000 to permanently finance the cost of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; amounts which may be deposited in the Reserve Account; engineering and legal expenses; expenses for estimates of costs and revenues and for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, commitment fees, fees of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and such other expenses as may be necessary or incidental to the financing herein authorized and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or the repayment of indebtedness, incurred by the Issuer for such purposes shall be deemed Costs of the Project.

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 1996 B Bonds be sold to the Authority pursuant to the terms and provisions of the Loan Agreement.

J. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Series 1996 B Bonds, or will have so complied prior to issuance of any Series 1996 B Bonds, including, among other things, the obtaining of the PSC Order, the time for rehearing and appeal of which expired or the rights of all parties to appeal have been waived.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the Registered Owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders and the covenants and agreements herein set forth to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owners of any and all of such Bonds of like series.

ARTICLE II

AUTHORIZATION OF CONSTRUCTION AND ACQUISITION OF THE PROJECT

Section 2.01. Authorization of Construction and Acquisition of the Project. There is hereby authorized the construction and acquisition of the Project in accordance with the plans and specifications which have been prepared at the direction of the Consulting Engineers and heretofore filed in the office of the Governing Body. The proceeds of the Series 1996 B Bonds hereby authorized and shall be applied as provided in Article VI hereof.

Pursuant to the MOU, DEP has entered into contracts for the acquisition and construction of the Project. The Project ownership will be transferred to the Issuer upon its completion.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 3.01. Authorization of Bonds. For the purposes of paying the costs of the Project, and paying certain costs of issuance and related costs, or any of such purposes as shall be specified in the Supplemental Resolution, there shall be issued negotiable bonds of the Issuer. Said Bonds shall be issued in one series, to be designated respectively "Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B," in the aggregate principal amount of not more than $1,980,000, and shall have such terms as are set forth hereinafter or in the Supplemental Resolution. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in the Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable quarterly on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by this Resolution or the Supplemental Resolution, the Bonds shall be issued in the form of a single bond, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in this Resolution. The Bonds shall be exchangeable at the option and expense of the Holder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in the Supplemental Resolution and shall bear interest from the date of first payment.

Section 3.03. Additional Terms of Series 1996 B Bonds. In addition to the terms set forth in Sections 3.01 and 3.02 hereof and in anticipation of the sale of the Series

1996 B Bonds to the Authority, the Issuer covenants that the Series 1996 B Bonds shall comply in all respects with the provisions of the Loan Agreement and of any resolution of the Authority authorizing the issuance of Series 1996 B Bonds.

Section 3.04. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.09, shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.06. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The Bonds shall be transferable only upon the books of the Bond Registrar, by the Registered Owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Bonds or transferring the Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this

Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obligated to make any such exchange or transfer of Bonds during the period commencing on the fifteenth day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing proof of its ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.08. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the Reserve Account. No Holder or Holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or the interest thereon.

Section 3.09. Bonds Secured by Pledge of Net Revenues. The payment of the debt service on all the Series 1996 B Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System, on parity with the lien on the Net Revenues in favor of the holders of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 1996 B Bonds and the Prior Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein and the Renewal and Replacement Fund hereinafter established and established in the Prior Resolutions, are hereby irrevocably pledged to the payment of the principal of and interest on the Prior Bonds and the Series 1996 B Bonds as the same become due.

Section 3.10. Form of Bonds. The text of the Series 1996 B Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of Bonds]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BOND (COW CREEK PROJECT), SERIES 1996 B

No. R-1 $1,980,000

KNOW ALL MEN BY THESE PRESENTS: That LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Logan County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of One Million Nine Hundred Eighty Thousand Dollars ($1,980,000) or such lesser amount as is set forth on the Record of Advances, attached hereto as Exhibit A and incorporated herein by reference, in installments on the 1st day of September, the 1st day of December, the 1st day of March and the 1st day of June in each year beginning December 1, 1997, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest on each installment at the rate of three percent (3%) per annum set forth on said Exhibit B.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority dated July 31, 1996.

This Bond is issued in the original principal amount of $1,980,000 (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and a Resolution duly adopted by the Issuer on July 30, 1996, and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured

equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S WATER REVENUE BONDS (NEIBERT-TAPLAN EXTENSION PROJECT), SERIES 1991 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $400,000; THE WATER REVENUE BONDS (J. C. EVANS PROJECT), SERIES 1992 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $1,400,000; THE WATER REFUNDING AND IMPROVEMENT REVENUE BONDS (GREENVILLE PROJECT), SERIES 1993 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $781,540.78; THE WATER REVENUE BONDS (UPPER RUM CREEK PROJECT), SERIES 1994 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $120,000; THE WATER REVENUE BONDS (UPPER CROOKED CREEK PROJECT), SERIES 1994 B, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $170,000; THE WATER REVENUE BONDS (DINGESS RUN), SERIES 1995 A, ISSUED IN THE AGGREGATE AMOUNT OF $400,000 AND THE WATER REVENUE BONDS (TRACE FORK/BIG CREEK WATER PROJECT), SERIES 1996A, ISSUED IN THE AGGREGATE AMOUNT OF $420,000 (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 operation of the System on a parity with the lien of the Prior Bonds, moneys in the Reserve Account created under the Resolution for the Bonds (the "Series 1996 B Bonds Reserve Account") and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside in a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1996 B Bonds Reserve Account and unexpended Bond Proceeds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, 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 debt service on the Series 1996 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with any of the Series 1996 B Bonds, including the Prior Bonds, provided however, that so long as the Series 1996 B Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on said Bonds in the then current or any succeeding year, and the reserve account for any other obligations outstanding prior to or on a parity with the Series 1996 B Bonds, including the Prior Bonds, is funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of the Bonds are

exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the costs of the Project 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 owner of this Bond.

On August 1, 1997, if the amount set forth on the Record of Advances is less than $1,980,000, the Authority shall upon written instruction of the Council revise Exhibit B to reflect the lesser amount but amortized at the same interest rate and quarterly payment amount.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Resolution, 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 July 31, 1996.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 B Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: July 31, 1996

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, as Registrar

By _____
Its Authorized Officer

EXHIBIT A

RECORD OF ADVANCES

	Amount	Date		Amount	Date
(1)	$		(7)	$	
(2)	$		(8)	$	
(3)	$		(9)	$	
(4)	$		(10)	$	
(5)	$		(11)	$	
(6)	$		(12)	$	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint _____ _____, Attorney to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____, ____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Ratification and Execution of Loan Agreement with Authority. The Series 1996 B Bonds shall be sold to the Authority pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

Section 3.12. "Amended Schedule A". Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual Costs of the Project and sources of funds therefor.

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 or Construction Trust Fund Depository Bank separate and apart from all other funds or accounts of each Depository Bank and from each other:

(1) Revenue Fund (established by Prior Resolutions);

(2) Renewal and Replacement Fund (established by Prior Resolutions);

(3) Series 1996 B Bonds Construction Trust Fund; and

(4) Rebate Fund.

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

(1) Series 1996 B Bonds Sinking Fund;

(a) Within the Series 1996 B Bonds Sinking Fund, the Series 1996 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund created pursuant to Section 4.01(A)(i) of the Prior Bonds Resolution. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

(1) The Issuer shall first, each month, pay from the Revenue Fund the current Operating Expenses of the System.

(2) Thereafter, from the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month and simultaneously with the transfers required by Sections 4.02(A)(1) of the Prior Resolutions, commencing 3 months prior to the first date of payment of interest on the Series 1996 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission, for deposit in the Series 1996 B Bonds Sinking Fund, a sum equal to 1/3rd of the amount of interest which will become due on said Series 1996 B Bonds on the next ensuing quarterly interest payment

date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1996 B Bonds Sinking Fund and the next quarterly interest payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month and without distinction or priority between the payments and simultaneously with the transfers required by Sections 4.02(A)(1) of the Prior Resolutions, commencing 3 months prior to the first date of payment of principal on the Series 1996 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 B Bonds Sinking Fund, a sum equal to 1/3rd of the amount of principal which will mature and become due on said Series 1996 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1996 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next and simultaneously with the transfer required by Sections 4.02(A)(2) of the Prior Resolutions, on the first day of each month and without distinction of priority between the two payments, commencing 3 months prior to the first date of payment of principal of the Series 1996 B Bonds, if not fully funded upon issuance of the Series 1996 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1996 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1996 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1996 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1996 B Bonds Reserve Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, commencing with the month succeeding the first full calendar month after commencement of operation of the Project, transfer to the Renewal and Replacement Fund a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of the Series 1996 B Bonds Reserve Account but inclusive of the transfers required by Sections 4.02(A)(3) of the Prior Resolutions. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may

be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1996 B Bonds Reserve Account, except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required by Subsection 5.03(A)(4), shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the Series 1996 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1996 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Funds are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 1996 B Bonds Sinking Fund and Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited for use in the Earnings Fund as required by Section 8.03.

Any withdrawals from the Series 1996 B Bonds Reserve Account which result in a reduction in the balance of the Series 1996 B Bonds Reserve Account to below the Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments for the Prior Bonds and to the Series 1996 B Bonds Sinking Fund and the Series 1996 B Bonds Reserve Account, including deficiencies for prior payments, have been made in full.

As and when additional Bonds ranking on a parity with the Series 1996 B Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay any interest on such Parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Series 1996 B Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

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

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or

legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Resolution.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any Parity Bonds that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Excess Revenues. Excess 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 Commission, the Registrar, the Paying Agent, or the Depository Bank as the case may be, shall require, such additional sums as shall be necessary to pay the charges and the fees then due.

D. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, that all deposits, including on account of deficiencies, shall be made in the order of priority set forth in Paragraph (A), above, and no payment of lower priority shall be made if there exists a deficiency in a fund or account of higher priority. No such deficiency shall exist solely because the required payments into the Reserve Accounts have not, as of such date, funded such account to the requirement therefor.

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

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

H. All Tap Fees shall be deposited by the Issuer, as received, in the Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and used for any lawful purpose of the System.

ARTICLE VI

APPLICATION OF BONDS PROCEEDS

Section 6.01. Application of Bonds Proceeds; Pledge of Unexpended Bonds Proceeds. From the moneys received from time to time from the sale of the Series 1996 B Bonds, the following amounts shall be deposited with the Depository Bank in the Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

The Depository Bank shall act as a trustee and fiduciary for the Bondholders with respect to the Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Construction Trust Fund set forth in this Resolution. Moneys in the Construction Trust Fund shall be used solely to pay Costs of the Project and, until so expended, are hereby pledged as additional security for the respective series of Bonds.

Section 6.02. Disbursements to and from the Construction Trust Fund. Monthly the Issuer shall provide the Council with a requisition for Costs incurred for the Project with such documentation as the Council shall from time to time require. Upon receipt of proceeds from the Authority, the Issuer shall deposit the proceeds in the Construction Trust Fund and then reimburse DEP or pay any approved costs. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Construction Trust Fund (except for the costs of issuance of the Bonds originally authorized hereby, which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineer, stating:

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

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

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

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

The Depository Bank shall not be required to monitor the application of disbursements from the Construction Trust Fund.

Pending such application, moneys in the Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

Section 6.03. Excess Bond Proceeds. Upon completion of the Project and to the extent permitted by the Authority, any Series 1996 B Bonds proceeds not required for the Project Costs shall be deposited in the Reserve Account but not in excess of the Series 1996 B Bonds Reserve Requirement.

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 Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the Holders of the Bonds, as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds, or the interest thereon is Outstanding and unpaid.

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

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position. The payment of the debt service of the Series 1996 B Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System on parity with the lien on said Net Revenues in favor of the holders of the Prior Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Prior Bonds and the Bonds herein authorized and to make the payments into the Sinking Funds, including the Reserve Accounts therein, and all other payments provided for in this Resolution and the Prior Resolutions are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in this Resolution.

Section 7.04. Initial Schedule of Rates and Charges. The schedule of rates and charges for the services and facilities of the System shall be as set forth, described in and ordered by the PSC Order, which schedule of rates is attached as Exhibit B hereto.

The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay the Operating Expenses of the System and to make the prescribed payments into the funds and accounts 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.

Section 7.05. Real Estate and Real Estate Interests. 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, subject to any

mortgage lien or other security interest as is provided for in the Local Statute unless a sale or transfer of all or a portion of said property or any interest therein is approved by the Authority.

Section 7.06. Sale of the System. Except as otherwise required by law and as long as the Prior Bonds are outstanding, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully or redeem at or prior to maturity all the Bonds Outstanding, or to effectively defease this Resolution in accordance with Sections 10.01 hereof and to pay the Series 1996 B Bonds and the Prior Bonds in full. The proceeds from any such sale, mortgage, lease or other disposition of the System shall be immediately remitted to the Commission for deposit in the Sinking Funds, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Series 1996 B Bonds about to mature and to the redemption prior to maturity at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds. Any balance remaining after the redemption or payment of all the Series 1996 B Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, in writing, determine upon consultation with the Managing Engineer that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall, upon receipt of approval of the Registered Owners, if needed, be remitted by the Issuer to the Commission for deposit in the appropriate Sinking Fund and shall be applied only to the purchase or redemption of Bonds of the last maturities then Outstanding at prices not greater than the applicable redemption price, or, if not redeemable, par, or otherwise in the Renewal and Replacement Fund. The payment of such proceeds into the Sinking Funds or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the

System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay or redeem prior to maturity all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of sixty-six and two-thirds (66 2/3%) in amount of the Bonds then Outstanding and the Managing Engineer. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. So long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that Parity Bonds may be issued as provided for in Section 7.08 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 and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required by the Prior Resolutions and to be made into the Reserve Accounts and the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

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

Section 7.08. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and in the Prior Resolutions so long as the Prior Bonds are outstanding.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1996 B Bonds, upon the prior written consent of the Authority and Council.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions or improvements to the System or refunding one or more series of Bonds issued pursuant hereto or the Prior Resolutions, or both such purposes.

As long as the Prior Bonds are Outstanding, the Issuer must comply with the terms of Sections 6.12 of the Prior Resolutions when issuing bonds on a parity with the

Series 1996 B Bonds and the Prior Bonds and must deliver a copy of the certificate required by Sections 6.12(B) of the Prior Resolutions before issuing such parity bonds.

After the Prior Bonds are no longer Outstanding, no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Managing Engineer, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the three succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

(1) The Bonds then Outstanding, including, without limitation, the Prior Bonds;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the three succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Managing Engineer, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Managing Engineer and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Managing Engineer and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such extensions or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Series 1996 B Bonds and the Holders 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 1996 B Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this 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.

B. Notwithstanding the foregoing, or any provision of Section 7.08 to the contrary, additional Bonds may be issued pursuant to a Supplemental Resolution solely for the purpose of completing the Project as described in the application to the Authority and in accordance with the plans and specifications prepared on behalf of the Consulting Engineers, in the event that the Series 1996 B Bonds should be insufficient, together with other funds lawfully available therefore, to pay all costs of construction and acquisition of the project without regard to the restrictions set forth in this Section 7.08, if there is first obtained by the Issuer the written consent of the Authority and Council to the issuance of bonds on a parity with the Bonds and provided further that prior to the issuance of such Parity Bonds and under the provisions of this paragraph, the Consulting Engineers shall file with the Secretary a certificate to the effect that additional funds are necessary for such purpose. All such Parity Bonds authorized and issued under the provisions of this paragraph shall be limited to the aggregate principal amount required to make up any deficiency in funds for payment of the construction costs to complete the Project, and the maturities of any such Parity Bonds shall be in years and amounts suggested by the Authority and Council. The holders of the Prior Bonds must consent to the issuance of such Parity Bonds.

Section 7.09. Books; Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority, acting by and through its Director, or his duly authorized agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at any and all reasonable times for the purpose of audit and examination, and the Issuer shall submit to the Authority 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 Authority and its agents and representatives to have access to the 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 Holder of a Bond or 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 and safeguards to the extent allowed by the Uniform System of accounts promulgated by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system, which may be installed remote from the direct supervision of the Governing Body, shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council, and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues, Excess Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds and shall submit said report to the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, the Loan Agreement and this Resolution and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

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

Section 7.10. Rates. Approvals of equitable rates or charges for the use of and service rendered by the System have been obtained all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System, including any reserves required by the PSC Order or any supplement or amendment thereto and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the Reserve Requirement are on deposit respectively in the Reserve Account and reserve accounts for obligations prior to or on a parity with the Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds.

Section 7.11. Operating Budget and Audit. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Managing Engineer, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Managing Engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

In addition, the Issuer shall annually cause the records of the System to be audited by an Independent Certified Public Accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of the Act, this Bond Resolution and the Loan Agreement and that the revenues of the System are adequate to meet the Issuer's operation and maintenance expenses and debt service requirements.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreement as Exhibit C, and forward a copy of such report to the Authority and Council by the 15th day of each month.

Section 7.12. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the PSC and other laws of the State.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.14. No Free Services. 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. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed and accepted by Issuer, the Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear, in accordance with the Loan Agreement. The Issuer shall require that each contractor 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. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as

provided in this Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority, including but not limited to flood insurance in accordance with the Loan Agreement, to the extent available at reasonable cost to the Issuer. Prior to commencing operation of the Project, the Issuer must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

Section 7.16. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Managing Engineer in the form attached to the Loan Agreement, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the DEP is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

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

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

Section 7.17. Completion of Project; Permits and Orders. The Issuer hereby covenants and agrees to 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 applicable laws, rules and regulations issued by the Council, the Authority or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System.

The Issuer will obtain all permits and approvals required by State and federal laws for the acquisition and construction of the Project and all orders and approvals from the Public Service Commission of West Virginia necessary for the acquisition and construction of the Project and the operation of the System with the appeal periods having expired without successful appeal.

Section 7.18. Reserved.

Section 7.19. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The Issuer shall use the Bond proceeds solely for the Project and as otherwise set forth herein, and the Project will be solely operated as a public purpose and as local governmental activity of the Issuer.

B. PRIVATE ACTIVITY BOND COVENANT. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code by reason of the classification of the Bonds as 'private activity bonds' within the meaning of the Code. The Issuer will take all actions necessary to comply with the Code in order to assure the tax-exempt status of the Bonds.

C. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Series 1996 B Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

E. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax exempt status of the Bonds, including without limitation the information return required under Section 149(e) of the Code.

F. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

Section 7.20. Statutory Mortgage Lien. For the further protection of the Holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Registered Owners of Bonds which lien is on a parity with the lien of the Prior Bonds.

Section 7.21. Compliance with Loan Agreement and Law. The Issuer agrees to comply with all terms and conditions of the Loan Agreement. The Issuer also agrees to

comply with all applicable laws, rules and regulations issued by the Authority or other state, federal or local bodies in regard to the purchase and acquisition of the Project and the operation, maintenance and use of the System.

Section 7.22. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

ARTICLE VIII

INVESTMENT OF FUNDS; NON-ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank or such other bank or national banking association holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Depository Bank or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once a year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records relating thereto so long as any of the Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of intent on the Bonds from gross income for Federal income tax purposes.

Section 8.02. Arbitrage. The Issuer covenants that (i) it will restrict the use of the proceeds of the Series 1996 B Bonds in such manner and to such extent as may be necessary, in view of the Issuer's reasonable expectations at the time of issuance of the Series 1996 B Bonds so that the Series 1996 B Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds so that the interest on the Series 1996 B Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Rebate of Excess Investment Earnings to the United States. A. CREATION OF FUNDS. There are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Resolution, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Resolution on account of the Series 1996 B Bonds, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than $100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the Issuer shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on or before the 30th day following the end of each Bond Year or on the preceding business day in the event that such last day is not a business day, or such earlier date as may be required under the Code or the Loan Agreement, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings, all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to the Construction Trust Fund until completion of the Project, and thereafter to the Revenue Fund.

B. DUTIES OF ISSUER IN GENERAL. The Issuer shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsections D and E.

C. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 15 days following the last day of the first Bond Year, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 15 days following the last day of each Bond Year and within 15 days following the date of the retirement of the Series 1996 B Bonds, the Issuer shall calculate, and shall provide written notice to the Authority and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made and/or monitored by the Issuer or the Authority, in its sole discretion, in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss

realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

(3) In determining the amount described in clause (A)(ii) of the definition of Excess Investment Earnings, the Yield on the Series 1996 B Bonds shall be determined based on the actual Yield of the Series 1996 B Bonds and during the period between the Closing Date for the Series 1996 B Bonds and the date the computation is made (with adjustments for original issue discount or premium).

(4) In determining the amount described in clause (B) of the definition of Excess Investment Earnings, all income attributable to the excess described in clause (A) of said definition must be taken into account, whether or not that income exceeds the Yield of the Series 1996 B Bonds, and no amount may be treated as "negative arbitrage."

(5) In determining the amount of Excess Investment Earnings, there shall be excluded any amount earned on any fund or account which is used primarily to achieve a proper matching of revenues and Debt Service within each Bond Year and which is depleted at least once a year except for a reasonable carryover amount not in excess of the greater of 1 year's earnings on such fund or account or 1/12th of annual Debt Service as well as amounts earned on said earnings if the gross earnings on such fund or account for the Bond Year is less than $100,000.

D. PAYMENT TO THE UNITED STATES. The Issuer shall direct the Depository Bank to pay from the Rebate Fund an amount equal to Excess Investment Earnings to the United States in installments with the first payment to be made not later than 30 days after the end of the 5th Bond Year and with subsequent payments to be made not later than 5 years after the preceding payment was due. The Issuer shall assure that each such installment is in an amount equal to at least 90% of the Excess Investment Earnings with respect to the Gross Proceeds as of the close of the computation period. Not later than 60 days after the retirement of the Series 1996 B Bonds, the Issuer shall direct the Depository Bank to pay from the Rebate Fund to the United States 100% of the theretofore unpaid Excess Investment Earnings in the Rebate Fund. In the event that there are any amounts remaining in the Rebate Fund following the payment required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of

the System. The Issuer shall remit payments to the United States at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection D, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor.

In the event the Issuer fails to make any such rebates as required, the Issuer shall pay any and all penalties, obtain a waiver from the Internal Revenue Service and take any other actions necessary or desirable to preserve the exclusion from gross income for Federal income tax purposes of interest on the Bonds.

E. FURTHER OBLIGATIONS OF ISSUER. The Issuer shall assure that Excess Investment Earnings are not paid or disbursed except as required in this Section. To that end the Issuer shall assure that investment transactions are on an arm's length basis and that Nonpurpose Investments are acquired at their fair market value. In the event that Nonpurpose Investments consist of certificates of deposit or investment contracts, investment in such Nonpurpose Investments shall be made in accordance with the procedures described in applicable Regulations as from time to time in effect. The Depository Bank shall keep the moneys in the Earnings Fund and Rebate Fund invested and reinvested to the fullest extent practicable in Government Obligations with maturities consonant with the required use thereof and investment profits and earnings shall be credited to the account of such fund on which earned.

F. MAINTENANCE OF RECORDS. The Issuer shall keep, and retain for a period of six years following the retirement of the Series 1996 B Bonds, records of the determinations made pursuant to this Section 8.03.

G. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 8.03, the Issuer and the Depository Bank (at the expense of the Issuer) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer or the Depository Bank may deem appropriate.

H. FURTHER AGREEMENT. Notwithstanding the foregoing, the Issuer further covenants to comply with all Regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

I. REPORTING TO AUTHORITY. The Issuer shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority and shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Bonds (as that term is defined in the Code) from time to time as the Authority may request.

J. AMENDMENTS TO THIS SECTION. Notwithstanding any of the provisions herein to the contrary, the Issuer agrees to amend the provisions of this Section from time to time at the direction of the Authority in order to insure continuing compliance with Section 8.02 hereof.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Resolution, any Supplemental Resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Bond Registrar, any Paying Agent or a Holder of a Bond; or

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

(4) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act, the Loan Agreement and this Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action at law or bill in equity enjoin any acts in violation of the Resolution with respect to the Bonds, or the rights of such Registered Owners, provided however, that all rights and remedies of the Registered Owners shall be subject to those of the Registered Owners of the Prior Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under this Resolution and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the

System or to complete the acquisition and construction of the Project, or both, on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Resolution for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of the 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 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 such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due, the principal installments of and interest on such Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Resolution. No material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Bonds shall be made without the consent in writing of the Registered Owners of sixty-six and two-thirds (66-2/3%) percent or more in principal amount of the Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Resolution may be amended without the consent of any Bondholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds from the gross income of the Holders thereof.

Section 11.02. Resolution Constitutes Contract. The provisions of the Resolution shall constitute a contract between the Issuer and the Registered Owners of the Bonds and no change, variation or alteration of any kind of the provisions of the Resolution shall be made in any manner, except as in this Resolution provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution and the 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. 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, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption of this Resolution do exist, have happened, have been

performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairperson, Secretary and members of the Governing Body were at all times when any actions in connection with this Resolution occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 30th day of July, 1996.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

Mrs. Gay O'Brien

Chairperson, Public Service District

James R. Jefferson

Member, Public Service District

Ben F. Lowe Jr.

Member, Public Service District

CERTIFICATION

Certified as a true copy of a Resolution adopted by the Public Service Board of Logan County Public Service District on the 30th day of July, 1996.

Dated: July 31, 1996.

[SEAL]

Secretary, Public Service District

CHASFS3:45912

EXHIBIT A

Construction of approximately 106,000 feet of 12-inch and smaller diameter water lines, three water storage tanks, three booster stations and all necessary appurtenances.

EXHIBIT B

SCHEDULE OF RATES

CHASFS3:45912

APPLICABILITY OF SERVICE

Applicable to all areas served by Logan County Public Service District.

AVAILABILITY OF SERVICE

Available for metered general, domestic, commercial and industrial service.

(A) Rates

First 2,000 gallons used per month	$6.43	per thousand gallons
Next 58,000 gallons used per month	6.16	per thousand gallons
Next 240,000 gallons used per month	4.52	per thousand gallons
Over 300,000 gallons used per month	2.33	per thousand gallons

(A) MINIMUM CHARGE

No bill will be rendered for less than the following amounts according to the size of the meter installed, to-wit:

5/8 Inch Meter	$	12.86 Per Month
3/4 Inch Meter		19.29 Per Month
1 Inch Meter		32.16 Per Month
1-1/4 Inch Meter		46.95 Per Month
1-1/2 Inch Meter		64.32 Per Month
2 Inch Meter		102.90 Per Month
3 Inch Meter		192.95 Per Month
4 Inch Meter		321.58 Per Month
6 Inch Meter		643.16 Per Month
8 Inch Meter		1,029.05 Per Month

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment is not interest and is to collected only once for each bill where it is appropriate.

RECONNECTION FEES

Service shall not be restored until all amounts in arrears, including penalties, plus the reconnection fee of Ten Dollars ($10) have been paid.

(A) Indicates Advance

(C) SERVICE CONNECTION CHARGE (Tap Fees)

$150.00. It shall be the responsibility of the customer to provide connection of their private service line to the meter setting.

RETURNED CHECKS FOR INSUFFICIENT FUNDS

If a check received is returned by the bank for any reason, the bank's charge to the Logan County PSD shall be the District's charge to the customer for such a bad check, but such charge to the customer shall not exceed $15.00.

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

Where connections, hydrants, sprinklers, etc., on property are maintained by consumer:

	PER ANNUM
2-inch service line with hydrants, sprinklers, and/or hose connections	$ 49.60
3-inch service line with hydrants, sprinklers, and/or hose connections	$ 112.11
4-inch service line with hydrants, sprinklers, and/or hose connections	$ 196.39
6-inch service line with hydrants, sprinklers, and/or hose connections	$ 497.65
8-inch service line with hydrants, sprinklers, and/or hose connections	$ 816.07
10-inch service line with hydrants, sprinklers, and/or hose connections	$1,447.50
12-inch service line with hydrants, sprinklers, and/or hose connections	$2,028.25

(N) INCREMENTAL COST OF WATER PURCHASED AND PRODUCED

$1.64 M Gal. To be used to bill water for customer leaks beyond historical average usage.

(C) Indicates Change
(N) Indicates New

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; APPROVING THE LOAN AGREEMENT WITH RESPECT TO THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board of the Logan County Public Service District (the "District") has duly and officially adopted a Bond Resolution on July 30, 1996 (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 $1,980,000 IN AGGREGATE PRINCIPAL AMOUNT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

WHEREAS, the Resolution provides for the issuance of the Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B (herein the "Bonds") in aggregate principal amount not to exceed $1,980,000, all in accordance with Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and the terms of the Loan Agreement (the "Loan Agreement") entered into between the District and the West Virginia Water Development Authority (the "Authority"), but requires that the dates, interest rates, maturities, sale prices and other terms of the Bonds should be established by a supplemental resolution;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement;

WHEREAS, the Public Service Board (the "Board") of the District deems it essential and desirable that this resolution (the "Supplemental Resolution"), be adopted and that the prices, the maturity dates, the redemption provisions, the interest rates, and the interest and principal dates of the Bonds be fixed hereby in the manner stated herein; that the Loan Agreement be approved; and that other matters relating to the Bonds be herein provided for; and

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

Section 1. Pursuant to the Resolution, the Act, and this Supplemental Resolution, the Bonds shall be in the aggregate principal amount of $1,980,000, with the following provisions:

The Series 1996 B Bonds shall be originally issued in the form of a single bond, numbered R-1, in the principal amount of $1,980,000. The Series 1996 B Bonds shall be dated the date of delivery thereof, shall finally mature June 1, 2036, shall bear interest at the rate of 3% per annum, payable quarterly on September 1, December 1, March 1 and June 1 of each year, first installment payable December 1, 1997, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1996 B Bonds, and shall be payable quarterly in installments of principal and interest on September 1, December 1, March 1 and June 1 in each of the years 1997 through 2036, inclusive, and in the amounts as set forth in the Loan Agreement and incorporated therein by reference. The Series 1996 B Bonds shall be sold to the Authority in accordance with the terms of the Loan Agreement at a price equal to 100% of the principal amount thereof.

Section 2. All other provisions relating to the Bonds shall be as provided in the Resolution, and the Bonds shall be in substantially the form provided in the Resolution with such changes, insertions and omissions as may be approved by the Chairperson of the District. The execution of the Bonds by the Chairperson shall be conclusive evidence of such approval.

Section 3. The District does hereby ratify, approve and accept the Loan Agreement, a copy of which is incorporated herein by reference, and the execution and delivery by the Chairperson of the Loan Agreement and the performance of the obligations contained therein, on behalf of the District have been and are hereby authorized, approved and directed.

Section 4. The District hereby reaffirms and appoints Bank One, West Virginia, National Association, Logan, West Virginia, as the Depository Bank, as provided in the Resolution.

Section 5. The District hereby appoints and designates Bank One, West Virginia, National Association, Charleston, West Virginia, as Registrar for the Bonds.

Section 6. The District hereby appoints and designates the West Virginia Municipal Bond Commission (the "Commission"), Charleston, West Virginia as Paying Agent for the Bonds.

Section 7. The Chairperson and Secretary or Acting Secretary are hereby authorized and directed to execute and deliver such other documents and certificates, including the Registrar's Agreement, required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Authority pursuant to the Loan Agreement on or about July 31, 1996.

Section 8. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 9. The District hereby directs the Depository Bank to initially invest all monies in the funds and accounts established under the Bond Resolution in Qualified Investments until further directed by the District.

Section 10. The Chairperson, Secretary, Treasurer and Managing Engineer are hereby authorized and directed to requisition the Council for costs incurred for the Project and upon receipt of proceeds from the Authority, shall deposit the proceeds in the Bond Construction Fund and then reimburse DEP or pay any approved costs.

The Board hereby approves the payment of DEP Invoice #1, incorporated herein by reference, and authorizes the payment of $461,877.20 to DEP upon receipt of the first advance of the proceeds of the Series 1996 B Bonds.

Section 11. The District shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the District to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder or under any predecessor thereto (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. The District will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 12. This Supplemental Resolution shall be effective immediately upon adoption.

Dated: July 30, 1996

LOGAN COUNTY PUBLIC SERVICE DISTRICT

[SEAL]

Mrs. Gene O'Briant
Chairperson

Secretary

45862

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

MINUTES ON ADOPTION OF BOND
RESOLUTION AND SUPPLEMENTAL RESOLUTION

I, James R. Jeffrey, Secretary of the Public Service Board of Logan County Public Service District, hereby certify that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

The Public Service Board of Logan County Public Service District met in special session, pursuant to notice duly given and posted, a copy of which is attached hereto and incorporated herein, on the 30th day of July, 1996, 201 ½ Stratton Street, White & Browning Building, Suite 507, Logan, West Virginia, at 7:00 p.m., prevailing time.

Present: Ann O'Briant - Chairperson and Member, Public Service Board;

James R. Jeffrey - Secretary and Member, Public Service Board;

Ben F. Lowe, Jr. - Treasurer and Member, Public Service Board;

Also present were Samme L. Gee of Jackson & Kelly, Bond Counsel, Rick Roberts, Managing Engineer and James A. Walker, Counsel to the District.

Ann O'Briant, Chairperson, presided and James R. Jeffrey acted as Secretary.

The Chairperson announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Chairperson presented a Bond Resolution, as amended, 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 $1,980,000 IN AGGREGATE PRINCIPAL AMOUNT OF LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, PROVIDING FOR THE RIGHTS AND REMEDIES OF

AND SECURITY FOR THE REGISTERED OWNERS OF SAID BONDS; APPROVING AND RATIFYING A LOAN AGREEMENT WITH THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY RELATING TO SAID BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO;

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

Thereupon, the Chairperson presented a Supplemental Bond Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES, AND OTHER TERMS OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT WATER REVENUE BONDS (COW CREEK PROJECT), SERIES 1996 B, DESIGNATING A REGISTRAR, PAYING AGENT, AND DEPOSITORY BANK; APPROVING THE LOAN AGREEMENT WITH RESPECT TO THE BONDS; AND MAKING OTHER PROVISIONS AS TO THE BONDS;

and caused the same to be read and there was discussion.

Thereupon, on motion of Mr. Jeffrey, seconded by Mr. Lowe, it was unanimously ordered that said Supplemental Resolution, as amended, be adopted and be in full force and effect on and from the date thereof.

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

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

WITNESS my signature on this 31st day of July, 1996.

[SEAL]

Secretary, Public Service Board

43331

EXHIBIT A

NOTICE OF SPECIAL MEETING OF THE

LOGAN COUNTY PUBLIC SERVICE DISTRICT

The Logan County Public Service District will hold a special meeting at 201½ Stratton Street, White & Browning Building, Suite 507 at 7:00 p.m. on Tuesday, July 30, 1996, Logan, West Virginia, for the purpose of acting on a bond resolution and supplemental resolution and any other matters relating to the proposed $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 which Project will provide water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County. The meeting is open to the public.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

By: /s/ James R. Jeffrey
Secretary

43332

I, Deanna C. Eplin, Classified Manager of THE LOGAN BANNER, a newspaper published in Logan County, West Virginia, do hereby certify that the annexed notice was published in said paper for 1 successive times on the following dates:

July 24, 1996

Given under my hand this 30th day of July, 1996.

Deanna C. Eplin
CLASSIFIED MANAGER

State of West Virginia
County of Logan, to-wit

Subscribed and sworn before me this 30th day of July, 1996.

Barbara J. Smith
NOTARY PUBLIC

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA J. SMITH
P.O. box 142
Man, WV 25635
My Comm. Exp. Jan. 7, 1997

Cost Of Publication: $ 12.32

COPY OF PUBLICATION

NOTICE OF SPECIAL MEETING OF THE LOGAN COUNTY PUBLIC SERVICE DISTRICT

The Logan County Public Service District will hold a special meeting at 201 1/2 Stratton Street, White & Browning Building, Suite 507 at 7:00 p.m. on Tuesday, July 30, 1996, Logan, West Virginia, for the purpose of acting on a bond resolution and supplemental resolution and any other matters relating to the proposed $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 which Project will provide water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County. The meeting is open to the public.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

By: James R. Jeffrey
Secretary

MEMORANDUM OF UNDERSTANDING

between

WEST VIRGINIA DIVISION

OF ENVIRONMENTAL PROTECTION

and

LOGAN COUNTY PUBLIC

SERVICE DISTRICT

COW CREEK-SARAH ANN WATER SUPPLY EXTENSION PROJECT

WHEREAS the West Virginia Division of Environmental Protection (WVDEP) is charged with the reclamation of lands and water affected by the adverse affects of coal mining activities which took place prior to August 3, 1977, pursuant to Title IV of Public Law 95-87, as amended, and West Virginia Code § 22-3-1 et seq.; and

WHEREAS it has been determined that the degradation of the water supply at and around Cow Creek and Sarah Ann, located in South Central, Logan County, "specifically included are some or all of the following communities: Cow Creek, Oldhouse Branch, Left Fork, Stirrat, Sarah Ann, Conley Branch and Crystal Block," has been caused in part by coal mining activities which took place prior to August 3, 1977; and

WHEREAS the Logan County Public Service District (LCPSD) and WVDEP are desirous of abating said effects by extending a water supply system from the water line at the intersection of County Routes (CR.) 119/26 and 5. The project ends (after forking twice) on Cow Creek (on CR. 13), just south of Sarah Ann on (State Route (SR) 44), and on Conley Branch (on CR. 44/4). The

total length of water line to be constructed is approximately 20 miles.

WHEREAS WVDEP has funds available to assist in the construction to extend and upgrade such water supply line facilities; and

WHEREAS the Logan County Water Board has a water line that terminates at the intersection of County Route (CR.) 119/26 and 5. The source of water for the project is to be the Logan County Public Service District (LCPSD), which will purchase water from the Logan Water Board (LWB). The LWB's system is fed by a water plant drawing water from the Guyandotte River.

WHEREAS WVDEP and the LCPSD are willing to cooperate in completing a project entitled "Cow Creek-Sarah Ann Water Supply Extension" which will bring domestic water service to the residents of Cow Creek and Sarah Ann communities;

WHEREAS the LCPSD is willing to operate and maintain the Cow Creek-Sarah Ann Water Supply Extension;

NOW, THEREFORE the WVDEP and the LCPSD, enter into this Memorandum of Understanding (MOU) this **25th** day of **January**, 1996, setting forth the terms and conditions under which such project shall be accomplished, which it is agreed shall be as follows:

SECTION I

PROJECT LOCATION

The project includes residents in part or all of the communities, not currently serviced by public water, are: Cow Creek, Oldhouse Branch (in Cow Creek), Left Fork (in Cow Creek), Stirrat, Sarah Ann, Conley Branch, and Crystal Block. The Oldhouse Branch community parallels CR. 13/1. The Stirrat community parallels SR 44. The Sarah Ann community parallels SR 44 and Cr's. 44/13 and 44/2. The Conley Branch community parallels CR. 44/4. The communities (currently served by public water) that are along the proposed transmission line (the proposed transmission line is sized to serve the residents directly adjacent to the line) are: Mount Gay, (paralleling SR. 44 and Cr's. 119/26 and 5), Whites Addition (paralleling SR. 44), Monitor (paralleling SR. 44), Wilkinson (paralleling SR.44), Rossmore (paralleling SR.44), Switzer (paralleling SR.44), Micco (paralleling SR.44), Chauncey (paralleling SR.44), Omar (paralleling SR 44 and CR. 119/5), Superior Bottom (paralleling SR 44), Barnabus (paralleling SR 44). The total length of water line to be constructed is approximately 20 miles with over 1,400 residences.(See attached map marked as attachment "A" and by reference incorporated herein.)

SECTION II

NEED FOR THE PROJECT

The source of water for domestic use and fire protection in the residences and communities in the Cow Creek-Sarah Ann project area is ground water, the quality of which is very poor.

The main water pollution problems affecting those residences and communities in the Cow Creek-Sarah Ann project area are substandard pH, iron (Fe), Manganese (Mn), Sulfate (SO_4) and Chlorides (Cl). Chemical analysis data from a feasibility report conducted by GAI Consultants, Inc., indicate that (89%) of the water samples collected were out of compliance with EPA National Secondary Drinking Water Regulations of 1979 and EPA National Interim Primary Drinking Water Regulations of 1975.

A major cause of the degraded water in the study area is via impact from pre-1977 mining activity. A water feasibility study by GAI Consultants, Inc. for the WVDEP is estimated that 71% of the residents within Cow Creek-Sarah Ann study area had their water supply degraded by pre-1977 mining activity. Thus it has been established that the ground water in the Cow Creek-Sarah Ann project area is substandard for drinking and other purposes and that it poses a health hazard substandard for drinking and other purposes.

The history of mining in the Cow Creek-Sarah Ann project area began in the mid 1900's, therefore most of the area has been

adversely impacted by early, unconscientious mining methods which involved little reclamation.

SECTION III

SCOPE OF WORK

1. The work will generally consist of construction and installation of approximately 56,620 feet of twelve inch, 42,470 feet of eight inch, 1,590 feet of six inch, and 5,010 feet of 2 inch water lines, service connections and miscellaneous appurtenances from the terminus of the LCPSD water line at the intersection of CR's. 119/26 and 5, a total distance of approximately 20 miles.

2. The work will include installation of three booster stations (500 gpm, 280 gpm, and 280 gpm) and three water storage tanks (870,000 gal., 129,000 gal., and 187,000 gal.) with telemetry systems and the installation of blow off valves, fire hydrants, air release valves, gate valves, and pressure reducing valves and other appurtenances as necessary.

3. Title to the completed facilities responsibility for the operation and maintenance of the completed facilities shall pass to the LCPSD upon completion of the project.

SECTION IV

CONSTRUCTION MONITORING

WVDEP agrees to provide inspection expertise on and of the project, consisting of, but not necessarily being limited to, a Project Coordinator, Construction Administrator, Construction Supervisor, and such Construction Inspectors. It is understood that all WVDEP personnel will report to and be under the direct supervision of WVDEP's Chief of Abandoned Mine Lands and Reclamation, through established WVDEP procedures.

SECTION V

FUNDING

1. WVDEP will pay for 100% of the design and construction monitoring costs associated with the project. The LCPSD shall review and approve the design.

2. The estimated total construction cost of the Cow Creek-Sarah Ann Water Supply Extension project is $5,357,785.00. LCPSD agrees to pay 100% of the costs associated with the construction as follows:

1.	Water Storage Tank Number 1(one)	
2.	Unclassified Excavation for Tank Site Prep.	4700 cu. yd.
3.	12" PVC C900 DR 14	660 L.F.
4.	12" PVC SDR 21	2140 L.F.
5.	Wet Mine Seals	4 ea.
6.	Telemetry System	1 ea.

The WVDEP and the LCPSD agree to pay certain percentages of the costs of construction as follows:

WVDEP SHARE	LCPSD SHARE
71%	29%

3. Prior to commencement of bidding procedures the LCPSD shall submit to WVDEP it's approval of the project design. Furthermore, LCPSD shall submit to WVDEP documentation to insure funding commitment prior to WVDEP recommending an award of contract.

4. Notwithstanding the above, it is understood and agreed that WVDEP will determine which of the submitted bids are awarded for the construction of the project. WVDEP prior to awarding contracts for construction of the project on the basis of submitted bids shall provide copies of submitted bids to the LCPSD thirty (30) days prior to awarding contracts, for LCPSD's review and comments.

5. If, prior to commencement of construction it is determined that the total costs of construction will substantially exceed the estimated total costs of construction, the WVDEP shall notify the LCPSD of such excess costs. The LCPSD shall review and approve such excess costs in writing to the WVDEP prior to the commencement of construction.

6. The LCPSD agrees to perform all the realty and realty rights-of-way work associated with the project in accordance with procedures utilized by the WVDEP Abandoned Mine Lands. The WVDEP agrees to reduce the LCPSD share of the total construction cost of the Cow Creek-Sarah Ann Water Line Extension project by an

amount equal to the mutually agreed upon costs for realty related work associated with the project.

The LCPSD agrees to pay for and obtain the Certificate of Convenience and Necessity for the project through the Public Service Commission of West Virginia. The WVDEP agrees to pay for and obtain all other necessary permits required by law, except those which are required to be obtained by the construction contractor in the project specifications.

The LCPSD with assistance from WVDEP agrees to complete and submit to the West Virginia Infrastructure and Jobs Development Council a "preliminary application" to the Water Development Authority.

SECTION VI

CONSTRUCTION MONITORING

1. With respect to construction monitoring, WVDEP agrees to provide inspection expertise, consisting of a Project Construction Inspector, who will report to the Chief of the Abandoned Mine Lands and Reclamation Section of WVDEP, or his authorized representative(s), through established WVDEP procedures. The Project Construction Inspector will be responsible for monitoring quantities, reviewing submitted construction invoices, overseeing the initiation and processing of change orders and such other matters as may affect WVDEP's interests in the project.

2. The LCPSD shall have the authority to review and approve minor field changes in the work to the extent that such field changes do not constitute a change in the scope of work.

3. It is agreed that the LCPSD shall review all shop drawings. WVDEP and LCPSD shall be furnished copies of each shop drawing.

4. The WVDEP Project Construction Inspector and the LCPSD representative shall work together to ensure that the project is constructed according to the approved design plans and specifications, and in accordance with the costs agreed to by the bidder awarded the project. However, should construction costs substantially increase during the construction period, WVDEP and LCPSD agree to pay their respective portions of such costs.

SECTION VII

PAYMENTS

WVDEP will pay submitted invoices for construction costs and services through its established procedure for payment of such cost and services. LCPSD will reimburse WVDEP based upon invoices submitted by WVDEP for construction costs and services incurred in accordance with the breakdown set forth in Section V, Paragraph 2 hereof. Invoices shall be submitted by the WVDEP to the LCPSD on a once per month basis. The LCPSD will reimburse the WVDEP within 30 days of receipt of invoices submitted by WVDEP for construction costs and services associated with the Cow

Creek-Sarah Ann water supply project. The LCPSD will be furnished with a copy of each invoice upon which payment is due.

SECTION VIII

OWNERSHIP AND MAINTENANCE

Ownership of the subject Cow Creek-Sarah Ann Water Supply Extension, is upon completion of construction, transferred and assumed by the LCPSD; and maintenance and repair of the subject Cow Creek-Sarah Ann Water Supply Extension, hereinbefore described in this MOU is assumed by the LCPSD.

SECTION IX

EXTENSION AND TERMINATION

1. This MOU shall be effective upon receipt by the WVDEP of documentation in writing that LCPSD has obtained its pro rata share of the estimated total construction and realty costs as such costs are described in Section V hereof. It is understood and agreed that the effective date of this agreement shall not occur after July 1, 1996. In the event the LCPSD is unable to submit documentation of a commitment of funding as herein contemplated on or before July 1, 1996, then this MOU shall be deemed null and void.

2. This MOU is entered into and is effective for the period beginning on the effective date set forth in Section IX.1. hereof, and ending July 1, 1998.

3. This MOU may be extended upon prior written approval of both parties, or may be terminated prior to commencement of

construction by either party, upon thirty (30) days prior written notice to the other party.

4. This project is subject to the approval of the Public Service Commission of West Virginia.

WITNESS the following signature and seals:

LAIDLEY ELI MCCOY, Ph.D. DIRECTOR
WEST VIRGINIA DIVISION OF
ENVIRONMENTAL PROTECTION

LOGAN COUNTY PUBLIC
SERVICE DISTRICT
By _____
Its Sec.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
5-22-96
By Commission Order

Entered: May 15, 1996

CASE NO. 95-1026-PWD-CN

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
a public utility, Logan County.
Application for a certificate of convenience and necessity to extend its water system to provide potable water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County, and for approval of financing and rates and charges incidental thereto.

RECOMMENDED DECISION

On January 23, 1996, Logan County Public Service District (District), a public utility, Logan County, filed an application, duly verified, for a certificate of convenience and necessity to extend its water system to provide potable water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County.

The District estimates that construction will cost approximately $6,220,000, and will be financed by a grant from the Abandoned Mine Lands in the amount of $4,240,000; and a loan from the Infrastructure Council in the amount of $1,980,000.

By Notice of Filing Order entered on January 24, 1996, the District was directed to give notice of its application by publishing a copy of the Notice of Filing, once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Logan County. If no public protest is timely filed in response to the published Notice, the Commission is authorized to render a decision without a hearing, by virtue of the provisions of West Virginia Code §24-2-11.

On January 29, 1996, the Public Service Commission issued a Referral Order in this matter, referring this case to the Division of Administrative Law Judges for a decision to be rendered on or before August 20, 1996.

By Commission Order entered on March 21, 1996, the District was directed to publish an amended Notice of Filing.

On March 29, 1996, Logan County Public Service District filed an affidavit of publication indicating that publication was made of the amended Notice of Filing on March 27, 1996, in The Logan Banner. No protests were filed in response to the published Notice.

On April 17, 1996, Cassius H. Toon, Staff Attorney, filed a Final Joint Staff Memorandum in this proceeding. Attached to that Memorandum was a Final Staff Internal Memorandum from William A. Nelson, Utility Financial Analyst, and Dina B. Foster, Utility Engineer, Public Service District Division. According to Staff, the District intends to construct approximately 106,000 feet of 12-inch and smaller diameter water lines, three water storage tanks, three booster stations and all necessary appurtenances. The water to supply these customers will be purchased from the City of Logan which currently provides a portion of the District's water. The project will serve approximately 260 new customers, as well as improve service to approximately 1,380 existing customers. The total cost based on actual bids is estimated at $5,706,695 as follows: Construction $4,844,480; Construction Contingency $267,215; Engineering $460,000; Land & Rights-of-Way $25,000; Permits $25,000; Legal & Administrative $30,000; Accounting $3,000; Bond Counsel $13,000; Capitalized Interest $20,000; and Contingencies $19,000, for a total project cost of $5,706,695.

The District proposes to finance the project through a West Virginia Division of Environmental Protection (WVDEP) Abandoned Mine Lands (AML) grant of $3,726,695 and a Water Development Authority (WDA) loan of $1,980,000. The proposed loan will accrue at an interest rate of 6.25% for a 40-year period. The first two years will require payment of interest only. The remaining 38 years will result in an annual debt requirement of approximately $136,528 and a 10% debt reserve of $13,653.

The required documentation confirming the project grant and loan funding has been submitted by the District. According to the respective funding agency's conditions, the District is in compliance to receive the respective funding. With regard to the AML grant, there is a memorandum of understanding between the District and the WVDEP setting forth the terms and conditions by which the project will be accomplished. This is a cooperative effort between the parties with the WVDEP responsible for the construction and its completion, while the District will own and be responsible for the operation and maintenance once the project is completed. This memorandum of understanding is a standard document when AML grant funds are involved. Staff, in accordance with West Virginia Code §16-13A-24, believes the District should be given approval to accept the proposed grant funds.

The District is requesting that the Rule 42 accounting exhibit requirement in this case be waived. This is in light of the fact that Commission Staff just concluded an audit and rate analysis of the District as part of Case No. 95-0919-PWD-42T, Final Order dated April 18, 1996. Thus, Staff, in this certificate case, will use the audit report which established rates and operations at going level. In addition, the District has provided the revenue projections and operation and maintenance estimates associated with this project. While the proposed borrowing will necessitate increasing the District's rates, the supporting financial documentation has been submitted and derived by Staff from the previous rate case analysis. Staff is in agreement with this requested waiver and recommends that it be granted.

The District will purchase the water to serve the project area from the City of Logan at its tail block rate of $0.67 per 1,000 gallons. The City, through written correspondence from its engineer, has indicated that it has sufficient capacity to provide the District with its additional water needs.

With this project the District will also connect its Switzer Water System to the new transmission line from the City. This system is currently served with water purchased from the Enaloc Water Company at a rate of $2.32 per 1,000 gallons. By purchasing water from the City of Logan to serve the Switzer Water System, the District will realize an annual savings of approximately $42,004. When offset with the project customers' estimated annual purchased water expense of $10,818, the net annual savings for purchasing water will be approximately $31,186.

The total annual operation and maintenance (O&M) expenses attributable to the project are estimated to be $33,786. This includes adjustments to electricity, maintenance materials, transportation, billing material and postage, memberships and dues, miscellaneous office expense and seven separate labor accounts. The District has offset these O&M adjustments with the $31,186 annual purchased water savings, for a net annual O&M project-related expense amount of $2,600. The Staff Engineer has reviewed these O&M estimates and made several adjustments that are discussed in her review. These Staff adjustments have reduced the proposed annual O&M amount by $14,460 and resulted in a net O&M savings or reduction of $11,860. This reduction is mainly due to the savings realized from purchasing water from the City of Logan. The adjusted annual expenses associated with the project including O&M, debt service and debt reserve total approximately $138,321.

To fund these additional expenses, the District has proposed an increase in its rates of approximately 8.5%. These proposed rates are estimated to generate additional annual operating revenues of approximately $291,227, of which $193,655 will be contributed by the existing customers and approximately $97,572 by the 260 new customers. These projected revenues are based on Staff's bill analysis, developed and utilized in the previous rate Case No. 95-0919-PWD-42T, and the new customers' projected usages of 4,500 gallons per month. This amount of operating revenue is excessive and results in a surplus at proforma of approximately $371,046, which is $135,846 over the Staff-recommended level of surplus established in the recent rate case. Thus, Staff recommended a 2.05% increase in rates which would generate approximately $138,321 in operating revenues over going-level revenues. The new customers will generate approximately $91,813 and the existing customers approximately $46,508. This projected operating revenue includes $2,739, or approximately 2.0% for customer penalties, which is consistent with the percentage established in the rate case. These rates should equally offset the Staff-adjusted expenses, as stated above.

Staff's recommended level of rates, as previously stated, will generate additional annual operating revenues of approximately $138,321 and will result in a surplus of approximately $235,200 and debt coverage of 164.52%. The resulting surplus is consistent with that established in the previous rate case and the debt coverage is more than adequate to meet the funding agency's required 115.00%. According to Staff, and based on this financial review and analysis, this project, as proposed, is feasible and should be approved.

The project report, dated January 1996, prepared by GAI Consultants, Inc., states that, of the 300 unserved families in the area, 161 were interviewed during the study phase of this project. Of the 161, 72% desired public water. Also, when a petition requesting a public water system was circulated, 221 of the potential 300 residents signed it. Complaints about

water quality from the available well water include taste and smell of rotten eggs and iron, red, brown, orange, yellow and black color. Also, water smells musty, rusty, of sulphur, cooked beets, sewage, bleach, and garbage. According to the residents, the water is not fit to drink, bathe or wash in. Of the families interviewed, 40% used some form of water treatment. During the study, 19 water samples were also tested and it was found that 17 were out of compliance for at least one primary or secondary standard. According to Staff, adequate need has been shown for the proposed project.

The plans and specifications for this project have been approved by the West Virginia Bureau of Public Health, and issued Permit No. 12,718 on January 10, 1996. The review of the plans and specifications revealed no conflict with Public Service Commission rules and regulations.

Bids for the construction have been received and the lowest bid came in at $4,844,480, which is $513,305 less than estimated. Total project cost is estimated at $5,706,695. According to Staff, these costs are reasonable.

The density for this project is 13 customers per mile, which is reasonable. The cost per customer is $21,949, which is normally considered high. However, this project is mostly grant-funded and the debt per customer is $7,615. Therefore, Staff is of the opinion that the proposed project is very feasible.

Staff has reviewed the proposed O&M expense adjustments. The District has estimated additional O&M expenses in the amount of $33,786 which are offset by a $31,190 savings in purchased water, for a total additional O&M in the amount of $2,600. According to Staff, the proposed O&M is overstated. The District included $14,460 for maintenance labor, meter maintenance labor, maintenance materials, meter testing labor, and administration labor. This will be a new system that will not require maintenance of meters and mains nor meter testing. Also, the administrative labor is already in the District's rates. Therefore, Staff has reduced the O&M by $14,460.

On April 23, 1996, the District filed a letter with the Commission asking the Commission to consider the following: The District requested a net increase of $2,600 for annual O&M expenses. These expenses were unusually low because of a $31,190 reduction of purchased water costs. The Staff Engineer recommended that the O&M expenses be reduced an additional $14,460, resulting in a net annual deficit of $11,860, based on the argument that this would be a new system and it will not require maintenance labor, meter maintenance labor, maintenance materials, meter testing labor, and administration.

According to the District, maintenance labor includes labor for locating and repairing leaks, repairs of distribution system components such as meter wells, hydrants, etc., maintenance of booster stations, water storage tanks, sampling and testing. Maintenance materials include items necessary for repairing leaks, valves, hydrants, and meter wells. Meter maintenance and testing labor are required anytime a meter is taken out of service due to non-payment of bills or customers moving. Each meter must be tested prior to being placed back into service according to Water Rule 6.00, Inspections and Tests. Administration includes the investigation of

customer complaints and resolutions thereof and evaluation of service requests, including main line extensions.

According to the District, some of the expenses as discussed above, were addressed in several previous cases before the Commission. In each case, these expenses were approved by the Commission as submitted. The following are examples of the Commission's historic rulings considering similar expenses in recent cases: (1) Case No. 95-0136-PWD-CN, Godby Branch Water Project; (2) Case No. 95-0266-PWD-CN, Dingess Run Water Project; (3) Case No. 95-0467-PWD-CN, Trace Fork/Big Creek Road Water Project; and (4) Case No. 95-0919-PWD-42T, rate case filing.

It is the District's contention that the referenced cases demonstrate precedent for the need for these adjustments and warrant the approval of such expenses. Therefore, the District requests that O&M be funded at the applied-for level of $2,600 and not reduced to the deficient level of $11,860 as recommended by Staff.

The District requested an annual surplus of $16,000 for this new system. It will be necessary to make five connections into the existing systems in Switzer and Monaville upon completion of this project. It is the District's estimate that each connection will cost approximately $7,000 to $8,000. The cost is high because most of the connections will require the installation of pressure regulators sized for fire flow conditions. It is anticipated that the expense of making these connections will be amortized over a two to three-year period.

The Staff Engineer recommended that a zero surplus level be provided for this new system as well as a radically reduced level of O&M funding. According to the District, experience has taught that all systems, regardless of age, require that certain maintenance items be performed to maintain a satisfactory level of service.

According to the District, the Staff-recommended going-level surplus of $235,200 was recently approved in Case No. 95-0919-PWD-42T. This entire surplus was dedicated to specific items deemed by Staff as necessary for the future successful operation of the District's existing system. Staff recommendations concerning this case, if implemented, would necessitate the elimination of certain improvements to the existing system which were approved April 18, 1996. Therefore, the District requests that the $16,000 surplus be included in this case.

On May 8, 1996, Cassius H. Toon, Staff Attorney, filed a Further Final Joint Staff Memorandum in this proceeding. Attached to that Memorandum was a Further Final Staff Internal Memorandum from William H. Nelson, Utility Financial Analyst and Dina B. Foster, Utility Engineer, Public Service District Division. According to Staff, the District filed a response listing items for reconsideration in this certificate filing. According to Staff, these mainly addressed the level of operation and maintenance expenses recommended by Staff.

Staff maintains that a new extension will not require significant maintenance of mains or meters, above what is already included in the District's base rates, for many years. Any meter removal, installation or testing due to nonpayment of water bills, should easily be done by the

District without adding costs. The investigation of customer complaints and resolution thereof, evaluation of service requests including main line extensions, etc., can also be done without adding expenses to the District.

According to Staff, Mr. McNulty's April 22, 1996 letter points out that similar expenses have been approved in previous District cases. This is true, however, in two of the three cited certificate cases, only a portion of the proposed O&M expenses were considered significant by Staff. In Case No. 95-0467-PWD-CN, Staff considered the overall additional O&M reasonable. However, the comparable expenses in that case only calculated to $21.00 per customer versus $56.00 per customer for this case. Regardless, the difference between the three previous cases and this one is that, in the previous cases, the projected revenues from the District's existing rates adequately covered the proposed O&M and debt service requirements. In such cases, Staff does not usually make an issue out of overstated O&M expenses, other than to point out that they are overstated. In cases where rates are being affected, it is standard practice to closely evaluate O&M expenses and allow only those that are applicable to the project, such as purchased water costs, power, meter reading and postage costs. All others are negligible and easily absorbed by the overall system.

Staff noted that, as part of the funding for this project, the District is utilizing a Water Development Authority loan. A condition of this loan is that the District establish and fund a renewal and replacement (R & R) reserve at a level of 2.5% of operating revenue associated with the project. Staff inadvertently omitted this reserve from its cash flow analysis. In order to fund this reserve, Staff's recommended rates need to be increased approximately 2.32% over present rates instead of the previously recommended 2.05%. This level of rates will generate additional annual operating revenues of $142,000, and results in an R & R reserve of $3,550.

The District has also asked for reconsideration of the zero surplus amount recommended by Staff, to an amount of $16,000. The District contends this amount of surplus is necessary to allow the District to make future connections into the existing systems in Switzer and Monaville upon completion of this project. The Staff position is that this certificate case reviewed the expenses, revenues and funding for a single project, but the District is attempting to fund additional projects through rates. According to Staff, it believes the appropriate vehicle for funding plant additions and replacements is a base rate case, such as the recently completed Case No. 95-0919-PWD-42T, for this District. Surplus funds are only a significant part of a rate case, rather than certificate filings. To recommend approval of surplus funds on this new extension would violate the Commission's policies behind the main extension rule, and the Staff's right to provide for plant additions through rate cases. The District has the right to file for rates anytime it needs to extend service and is unable to finance its share under the main extension rules.

As Staff pointed out, this filing is for extensions into the Cow Creek, Sarah Ann and Crystal Block areas. Staff is of the opinion that to provide additional funds for future connections into the Monaville and Switzer systems and to obtain money in advance through rates is totally inappropriate and outside the normal purview of the certificate procedure. The costs of future connections and system maintenance are matters for base rate cases. This new extension should not require maintenance in the near

future. Staff again recommended no surplus, arguing that its position is consistent with the certification of a new project.

On May 10, 1996, Michael McNulty, Assistant Managing Engineer for Logan County Public Service District, filed a letter with the Commission stating that the District accepts the Staff recommendation, as filed on May 8, 1996.

FINDINGS OF FACT

1. On January 23, 1996, Logan County Public Service District (District), a public utility, Logan County, filed an application, duly verified, for a certificate of convenience and necessity to extend its water system to provide potable water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas in Logan County. (See application).

2. By Order entered on March 21, 1996, Logan County Public Service District was required to provide public notice of its application. (See Order entered March 21, 1996).

3. On March 29, 1996, the District filed an affidavit of publication in this proceeding, indicating that the required notice was published on March 27, 1996, in The Logan Banner. (See affidavit filed March 29, 1996).

4. The 30-day protest period expired on April 27, 1996, with no protests having been filed in response to the published Notice. (See case file generally).

5. According to Staff, the District proposes to finance the project through a West Virginia Division of Environmental Protection Abandoned Mine Lands grant of $3,726,695 and a Water Development Authority loan of $1,980,000. (See, Final Joint Staff Memorandum filed April 17, 1996).

6. On May 8, 1996, Staff filed a Further Final Joint Staff Memorandum recommending an increase of 2.32% over present rates. (See, Further Final Joint Staff Memorandum filed May 8, 1996).

7. Staff is of the opinion that the project is in the public interest, is adequately funded and should be approved. (See, Final Joint Staff Memorandum filed April 17, 1996).

8. On May 10, 1996, the District filed a letter with the Commission accepting Staff's recommendation, as filed on May 8, 1996. (See, letter filed May 10, 1996).

CONCLUSIONS OF LAW

1. The public convenience and necessity require the proposed project.

2. The proposed project will provide adequate service.

3. The proposed project is adequately financed by a West Virginia Division of Environmental Protection Abandoned Mine Lands grant of $3,726,695 and a Water Development Authority loan of $1,980,000.

4. Logan County Public Service District has provided adequate and proper notice to the public of the proposed project and no protests have been filed in response thereto.

5. The issuance of this certificate of convenience and necessity shall be for the project as proposed. Any substantial changes in the scope of the project and/or funding after the granting of the certificate will require further approval from the Public Service Commission.

ORDER

IT IS, THEREFORE, ORDERED that a certificate of convenience and necessity be, and it hereby is, granted to the Logan County Public Service District to construct approximately 106,000 feet of 12-inch and smaller diameter water lines, three water storage tanks, three booster stations and all necessary appurtenances in the Cow Creek, Sarah Ann, Crystal Block and surrounding areas of Logan County, as set forth in the application filed herein on January 24, 1996, and as amended on March 27, 1996.

IT IS FURTHER ORDERED that the proposed financing, consisting of a West Virginia Division of Environmental Protection Abandoned Mine Lands grant of $3,726,695 and a Water Development Authority loan of $1,980,000, be approved.

IT IS FURTHER ORDERED that the rates and charges recommended by Commission Staff in the Further Final Joint Staff Memorandum filed on May 8, 1996, be, and they hereby are, approved to become effective for the customers served by this project for all service rendered on and after the date that this project is placed into service. The District shall file a notice of the actual in-service date of the project when the project becomes operational. The District shall file a revised tariff setting forth the rates and charges approved herein within ten (10) days of the date that this order becomes final. The approved rates and charges are attached hereto as Appendix A.

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.

Miles C. Cary
Miles C. Cary
Administrative Law Judge

MCC:mal/pst

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 95-1026-PWD-CN
LOGAN COUNTY PUBLIC SERVICE DISTRICT
APPROVED RATES

APPLICABILITY OF SERVICE

Applicable to all areas served by Logan County Public Service District.

AVAILABILITY OF SERVICE

Available for metered general, domestic, commercial and industrial service.

RATES

First	2,000 gallons used per month	$6.59	per 1,000 gallons
Next	58,000 gallons used per month	6.31	per 1,000 gallons
Next	240,000 gallons used per month	4.62	per 1,000 gallons
Over	300,000 gallons used per month	2.38	per 1,000 gallons

MINIMUM CHARGE

No bill will be rendered for less than the following amount according to the size of the meter installed, to-wit:

5/8-inch meter	$ 13.18 per month
3/4-inch meter	19.77 per month
1-inch meter	32.95 per month
1-1/4-inch meter	48.11 per month
1-1/2-inch meter	65.90 per month
2-inch meter	105.44 per month
3-inch meter	197.70 per month
4-inch meter	329.50 per month
6-inch meter	659.00 per month
8-inch meter	1,054.40 per month

DELAYED PAYMENT PENALTY

The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment is not interest and is to be collected only once for each bill where it is appropriate.

RECONNECTION FEES

Service shall not be restored until all amounts in arrears, including penalties, plus the reconnection fee of Ten Dollars ($10.00) have been paid.

SERVICE CONNECTION CHARGE (Tap Fees)

$150.00. It shall be the responsibility of the customer to provide connection of their private service line to the meter setting.

RETURNED CHECKS FOR INSUFFICIENT FUNDS

If a check received is returned by the bank for any reason, the bank's charge to the Logan County Public Service District shall be the District's charge to the customer for such a bad check, but such charge to the customer shall not exceed $15.00.

AVAILABILITY OF SERVICE

Available for private fire protection service.

RATE

Where connections, hydrants, sprinklers, etc., on private property are maintained by consumer:

	Per Annum
2-inch service line with hydrants, sprinklers, and/or hose connections	$ 49.60
3-inch service line with hydrants, sprinklers, and/or hose connections	112.11
4-inch service line with hydrants, sprinklers, and/or hose connections	196.39
6-inch service line with hydrants, sprinklers, and/or hose connections	497.65
8-inch service line with hydrants, sprinklers, and/or hose connections	816.07
10-inch service line with hydrants, sprinklers, and/or hose connections	1,447.50
12-inch service line with hydrants, sprinklers, and/or hose connections	2,028.25

INCREMENTAL COST OF WATER PURCHASED AND PRODUCED

$1.64 M Gal. To be used to bill water and customer leaks beyond historical average usage.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered by the Public Service Commission of West Virginia, in the City of Charleston on the 9th day of July, 1996.

CASE NO. 95-1026-PWD-CN (Reopened)

LOGAN COUNTY PUBLIC SERVICE DISTRICT,
Application for a certificate of convenience and necessity for the Cow Creek and Sarah Ann water project.

COMMISSION FINAL ORDER

WHEREAS, on May 22, 1996, a Recommended Decision was entered by Administrative Law Judge Miles C. Cary, granting the certificate of convenience and necessity to extend the water system to provide potable water service to the communities of Cow Creek, Sarah Ann, Crystal Black and surrounding areas of Logan County.

The proposed financing, consisting of a West Virginia Division of Environmental Protection Abandoned Mine Land Grant and a Water Development Authority loan was also approved.

The Recommended Decision also approved certain rates and charges for the District's customers, resulting in a 2.32% rate increase to its customers.

On June 24, 1996, Logan County Public Service District, petitioned the Commission to reopen the certificate proceeding for approval to change the method of financing the water project. As cause, it was stated, that the District received binding confirmation of funding from the West Virginia Infrastructure and Jobs Development Council loan of $1,980,000 for the water project.

Originally, the District intended to finance construction with a loan from the Water Development Authority which required an increase of rates for its customers. Financing the project with the loan from the Jobs Development Council instead will allow the District to keep its water rates and charges at its current level and maintain the Staff recommended cash surplus.

WHEREAS, the petition to reopen the proceeding is reasonable and it should be granted; and,

WHEREAS, the request to change the method of financing is also reasonable, and it should be granted; and,

IT IS THEREFORE ORDERED that the petition to reopen the certificate of convenience and necessity application for Logan County Public Service District, in Case No. 95-1026-PWD-CN, to change the method of financing the Cow Creek, Sarah Ann, Crystal Block and surrounding areas of Logan

County water project is approved.

IT IS FURTHER ORDERED that the Acting Secretary of the Commission be, and she hereby is, directed to serve a copy of this order upon Logan County Public Service District, by United States Certified Mail, return receipt requested and upon Commission Staff by hand delivery.

A True Copy, Teste:

Pamela J. Hicks
Acting Secretary

I, Deanna C. Eplin, Classified Manager of THE LOGAN BANNER, a newspaper published in Logan County, West Virginia, do hereby certify that the annexed notice was published in said paper for 1 successive times on the following dates:

March 27, 1996

Given under my hand this 27th day of March, 1996.

CLASSIFIED MANAGER

State of West Virginia
County of Logan, to-wit

Subscribed and sworn before me this 27th day of March, 1996.

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
BARBARA J. SMITH
P.O. Box 149
Man, WV 25635
My Comm. Exp. Jan. 7, 1997

NOTARY PUBLIC

Cost Of Publication: $ 120.12

COPY OF PUBLICATION

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA CHARLESTON

Entered by the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA, in the City of Charleston on the 21st day of March, 1996.

CASE NO. 95-1026-PWD-CN

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

Application for a certificate of convenience and necessity to extend its water system to provide potable water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County, and for approval of financing and rates and charges incidental thereto.

AMENDED NOTICE OF FILING

WHEREAS, on January 23, 1996, Logan County Public Service District, a public utility, Logan County, filed an application, duly verified, for a certificate of convenience and necessity to extend its water system to provide potable water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County; and

WHEREAS, Logan County Public Service District estimates that construction will cost approximately $6,220,000, and will be financed by a grant from the Abandoned Mine Lands in the amount of $4,240,000; and a loan from the Infrastructure Council or the Water Development Authority in the amount of $1,980,000. If the loan is from the Water Development Authority, it will be for forty (40) years at an interest rate of 6.25%; and

WHEREAS, Logan County Public Service District is requesting approval of the following rates and charges:

Applicability of Service
Applicable to all areas served by Logan County Public Service District.

Availability of Service
Available for metered general, domestic, commercial and industrial service.

Rates

First	2,000 gallons used per month	$6.98 per thousand gallons
Next	58,000 gallons used per month	6.68 per thousand gallons
Next	240,000 gallons used per month	4.90 per thousand gallons
Over	300,000 gallons used per month	2.53 per thousand gallons

Minimum Charge
No bill will be rendered for less than the following amounts according to the size of the meter installed, to-wit:

5/8-inch meter	$ 13.96 per month
3/4-inch meter	20.94 per month
1-inch meter	34.90 per month
1-1/4-inch meter	50.95 per month
1-1/2-inch meter	69.80 per month
2-inch meter	111.66 per month
3-inch meter	209.37 per month
4-inch meter	349.00 per month
6-inch meter	698.00 per month
8-inch meter	1,116.00 per month

Delayed Payment Penalty
The above tariff is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment is not interest and is to be collected only one for each bill where it is appropriate.

Reconnection Fees
Service shall not be restored until all amounts in arrears, including penalties, plus the reconnection fee of Ten Dollars ($10) have been paid.

Service Connection Charge
Prior to construction, there shall be no charge for installing the meter setting at the customer's property line. Subsequent to construction, there shall be a charge for installation of the meter setting of $150.00. However, both prior to and subsequent to construction, it shall be the responsibility of the customer to provide connection of their private service line to the meter setting.

Returned Checks for Insufficient Funds
If a check received is returned by the bank for any reason, the bank's charge to the Logan County Public Service District shall be the District's charge to the customer for such a bad check

Availability of Service
Available for private fire protection service.

Rate
Where connections, hydrants, sprinklers, etc., on private property are maintained by consumer:

	Per Annum
2-inch service line with hydrants, sprinklers, and/or hose connections	$ 51.21
3-inch service line with hydrants, sprinklers, and/or hose connections	115.74
4-inch service line with hydrants, sprinklers, and/or hose connections	202.77
6-inch service line with hydrants, sprinklers, and/or hose connections	513.82
8-inch service line with hydrants, sprinklers, and/or hose connections	842.59
10-inch service line with hydrants, sprinklers, and/or hose connections	1,494.54
12-inch service line with hydrants, sprinklers, and/or hose connections	2,094.17

Pursuant to §24-2-11, West Virginia Code, IT IS ORDERED that Logan County Public Service District, a public utility, give additional notice of the filing of said application by publishing a copy of this order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in the City of Logan, Making due return to this Commission of proper certification of publication immediately after publication. Anyone desiring to make objection to said application must do so in writing, within thirty (30) days after the publication of this notice, to P. O. Box 812, Charleston, West Virginia 25323.

IT IS FURTHER ORDERED that if no protests are received within said 30-day period, the Commission may waive formal hearing and grant the application of Logan County Public Service District, based on the evidence submitted with said application and its review thereof.

A TRUE COPY, TESTE:

Howard M. Cunningham,
Executive Secretary

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

CERTIFICATE OF:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES
6. PUBLIC SERVICE COMMISSION ORDER; RATES
7. INCUMBENCY AND OFFICIAL NAME
8. LAND AND RIGHTS-OF-WAY
9. MEETINGS
10. INSURANCE
11. LOAN AGREEMENT
12. SPECIMEN BONDS
13. CONFLICTS OF INTEREST
14. GRANTS
15. NO FEDERAL GUARANTY
16. IRS INFORMATION RETURN

We, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of the Logan County Public Service District (herein called the "District"), and the undersigned ATTORNEY for the District, hereby certify in connection with the single, fully registered Logan County Public Service District Water Revenue Bond, Series 1996 B, numbered R-1, dated the date hereof, in the principal amount of $1,980,000 (herein called the "Bonds"), the Bonds bearing interest at the rate of three percent (3%), as follows:

1. TERMS: All capitalized words and terms used in this Certificate and not otherwise defined shall have the same meaning as in the Bond Resolution duly adopted by the Public Service Board (the "Board") of the District on July 30, 1996 and a Supplemental Resolution adopted July 30, 1996 relating to the Bonds (collectively, the "Resolution"), and the Loan Agreement (the "Loan Agreement") entered into between the District and the West Virginia Water Development Authority (the "Authority"), dated July 31, 1996.

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 the issuance and delivery of the Bonds; nor questioning the proceedings and authority by which the Board of the District authorized the issuance and sale of the Bonds;

nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the District or the title of the members or officers of the District or of the Board thereof to their respective offices; nor questioning construction and acquisition of the improvements and extensions to the existing waterworks facilities of the District financed in part by the proceeds of the sale of the Bonds (herein called the "Project"), nor operation by the District of the Project (said existing facilities, the Project and any further extensions, additions, improvements or betterments thereto, herein collectively called the "System"), nor challenging the collection or use or pledge of the Net Revenues of the System.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals and certificates required by law for construction of the Project, operation of the System, and issuance of the Bonds have been duly and timely obtained and remain in full force and effect, and competitive bids for construction of the Project have been solicited by DEP 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 DEP has previously entered into construction contracts for the Project.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the District since the Council approved the Project. Further, there has been no adverse change in the status of any grant necessary to finance the acquisition and construction of the Project. The District is current on all payments on the Prior Bonds and is in compliance with all covenants with respect to said Prior Bonds.

There are outstanding obligations of the District which will rank on a parity with the Series 1996 B Bonds as to liens, pledge and source of and security for payment, which obligations are designated and have the lien positions with respect to the Series 1996 B Bonds as follows:

Designation	Lien Position
Water Revenue Bonds (Neibert-Taplan Extension Project), Series 1991 A, issued in the original aggregate amount of $400,000;	First Lien
Water Revenue Bonds (J. C. Evans Project), Series 1992 A, issued in the original aggregate amount of $1,400,000;	First Lien

Water Refunding and Improvement Revenue Bonds (Greenville Project), Series 1993 A, issued in the original aggregate amount of $781,540.78;	First Lien
Water Revenue Bonds (Upper Rum Creek Project), Series 1994 A, issued in the original aggregate amount of $120,000;	First Lien
Water Revenue Bonds (Upper Crooked Creek Project), Series 1994 B, issued in the original aggregate amount of $170,000;	First Lien
Water Revenue Bonds (Dingess Run), Series 1995 A, issued in the aggregate amount of $400,000; and	First Lien
Water Revenue Bonds (Trace Fork/Big Creek Water Project), Series 1996 A, issued in the aggregate amount of $420,000.	First Lien

The above-referenced outstanding bonds are hereinafter collectively called the "Prior Bonds."

The Series 1996 B Bonds shall be issued on a parity with the Prior Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The District has met the coverage requirements for issuance of parity bonds of the Prior Bonds and the resolutions authorizing the Prior Bonds and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The District has received a certificate of an independent certified public accountant to the effect that the parity test set forth in the resolutions authorizing the Prior Bonds has been met. Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

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

6. PUBLIC SERVICE COMMISSION ORDER; RATES: The undersigned Attorney hereby certifies that the District has filed information with the Public Service Commission (the "PSC") and taken all other action required to maintain the

Recommended Decision which became the Final Order of the PSC issued in Case No. 95-1026-PWD-CN which grants a Certificate of Convenience and Necessity, and approves the sale of the Bonds, dated May 22, 1996, as amended by the Final Order issued July 9, 1996 in full force and effect, and has taken all other action required by applicable law. The rates and charges approved by the PSC are to become effective after the date this project is placed into service.

7. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the District is "Logan County Public Service District," and it is a public corporation organized and existing under the laws of, and a public corporation and political subdivision of, the State of West Virginia in Logan County of said State. The governing body of the District is its Public Service Board, consisting of three (3) members, whose names and dates of commencement and termination of terms of office during these Bond proceedings are as follows:

Name	Title	Date of Commencement of Office	Date of Termination of Office
Ann O'Briant	Chairperson	10/05/95	10/05/01
James R. Jeffrey	Secretary	01/05/96	01/05/02
Ben F. Lowe, Jr.	Treasurer	01/05/96	01/05/02

James A. Walker, Esquire, P.O. Box 358, Logan, West Virginia, whose signature appears hereon is the duly appointed and acting Attorney for the District.

8. LAND AND RIGHTS-OF-WAY: All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the District and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the District to pay for the same without jeopardizing the security of or payments on the Bonds.

9. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the District in any way connected with the construction, acquisition, operation and financing of the Project were authorized or adopted at meetings of the Board duly and regularly or specially called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings.

10. INSURANCE: The District will maintain or, as appropriate, the DEP under the MOU will require all contractors to, maintain Worker's Compensation, public liability and property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance where applicable, in accordance with the Resolution and the Loan Agreement.

11. LOAN AGREEMENT: As of the date hereof, (i) the representations of the District contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and (iii) to the best knowledge of the undersigned, no event affecting the District has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading.

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

13. CONFLICTS OF INTEREST: No officer or employee of the District has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the District and the sale of any land, materials, supplies or services to the District, or to any contractor supplying the District, relating to the Bonds, the authorizing document and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

14. FUNDING: The District's Abandoned Mines Lands Funding and the MOU are in full force and effect.

15. NO FEDERAL GUARANTY: The Bonds are not, in whole or in part, and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

16. IRS INFORMATION RETURN: On the date hereof, the undersigned Chairperson did officially sign a properly completed IRS Form 8038-G and will cause such executed Form 8038-G to be filed in a timely manner with the Internal Revenue Service Center, Philadelphia, Pennsylvania.

WITNESS our signatures and the official corporate seal of the Logan County Public Service District as of the 31st day of July, 1996.

[SEAL]

Signature	Official Title
Mrs. Gay O'Briant	Chairperson
James R. Jeffries	Secretary
Jim A. Walk	Attorney

43334

EXHIBIT A

(SPECIMEN BOND)

43334

"SPECIMEN"

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LOGAN COUNTY PUBLIC SERVICE DISTRICT
WATER REVENUE BOND (COW CREEK PROJECT), SERIES 1996 B

No. R-1 $1,980,000

KNOW ALL MEN BY THESE PRESENTS: That LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public corporation and political subdivision of the State of West Virginia in Logan County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of One Million Nine Hundred Eighty Thousand Dollars ($1,980,000) or such lesser amount as is set forth on the Record of Advances, attached hereto as Exhibit A and incorporated herein by reference, in installments on the 1st day of September, the 1st day of December, the 1st day of March and the 1st day of June in each year beginning December 1, 1997, as set forth on the "Schedule of Annual Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest on each installment at the rate of three percent (3%) per annum set forth on said Exhibit B.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and upon the terms and

conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority dated July 31, 1996.

This Bond is issued in the original principal amount of $1,980,000 (i) to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing waterworks system of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), and a Bond Resolution and Supplemental Resolution duly adopted by the Issuer on July 30, 1996 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S WATER REVENUE BONDS (NEIBERT-TAPLIN EXTENSION PROJECT), SERIES 1991 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $400,000; THE WATER REVENUE BONDS (J. C. EVANS PROJECT), SERIES 1992 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $1,400,000; THE WATER REFUNDING AND IMPROVEMENT REVENUE BONDS (GREENVILLE PROJECT), SERIES 1993 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $781,540.78; THE WATER REVENUE BONDS (UPPER RUM CREEK PROJECT), SERIES 1994 A, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $120,000; THE WATER REVENUE BONDS (UPPER CROOKED CREEK PROJECT), SERIES 1994 B, ISSUED IN THE ORIGINAL AGGREGATE AMOUNT OF $170,000; THE WATER REVENUE BONDS (DINGESS RUN), SERIES 1995 A, ISSUED IN THE AGGREGATE AMOUNT OF $400,000 AND THE WATER REVENUE BONDS (TRACE FORK/BIG CREEK WATER PROJECT), SERIES 1996A, ISSUED IN THE AGGREGATE AMOUNT OF $420,000 (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 operation of the System on a parity with the lien of the Prior Bonds, moneys in the Reserve Account created under the Resolution for the Bonds (the "Series 1996 B Bonds Reserve Account") and unexpended proceeds of the Bonds (the "Bond Proceeds"). Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside in a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1996 B Bonds Reserve Account and unexpended Bond Proceeds. Pursuant to the

Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, 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 debt service on the Series 1996 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with any of the Series 1996 B Bonds, including the Prior Bonds, provided however, that so long as the Series 1996 B Bonds Reserve Account is funded at an amount at least equal to the maximum amount of principal and interest which will come due on said Bonds in the then current or any succeeding year, and the reserve account for any other obligations outstanding prior to or on a parity with the Series 1996 B Bonds, including the Prior Bonds, is funded at an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the Registered Owners of the Bonds for the terms of which reference is made to the Resolution. Remedies provided the Registered Owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Resolution, only upon the books of the Registrar by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the costs of the Project 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 owner of this Bond.

On August 1, 1997, if the amount set forth on the Record of Advances is less than $1,980,000, the Authority shall upon written instruction of the Council revise Exhibit B to reflect the lesser amount but amortized at the same interest rate and quarterly payment amount.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all

other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Resolution, 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 July 31, 1996.

[SEAL]

"SPECIMEN"

Chairperson

ATTEST:

"SPECIMEN"

Secretary

R-1

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1996 B Bonds described in the within-mentioned Resolution and has been duly registered in the name of the Registered Owner set forth above, as of the date set forth below.

Date: July 31, 1996

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, as Registrar

"SPECIMEN"

By _____
Its Authorized Officer

R-1

EXHIBIT A

RECORD OF ADVANCES

	Amount	Date		Amount	Date
(1)	$		(7)	$	
(2)	$		(8)	$	
(3)	$		(9)	$	
(4)	$		(10)	$	
(5)	$		(11)	$	
(6)	$		(12)	$	

Total $_____

R-1

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

R-1

(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:

_____

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

CERTIFICATE OF THE ACTING SECRETARY AS TO TRUTH
AND ACCURACY OF DOCUMENTS DELIVERED

I, the undersigned James R. Jeffrey, Secretary of the Public Service Board (the "Board") of Logan County Public Service District (the "District"), hereby certify that the copies of the following documents being delivered in connection with the closing of the sale of $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B (the "Bonds"), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the District and delivered in the transcript of proceedings, that said documents have been duly adopted or entered by the Board, and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Rules of Procedure.

2. Order of The County Commission of Logan County (the "County Commission") creating the District.

3. Orders of the County Commission appointing current Board members.

4. Certificate as to Oaths of Office of Board members.

5. Loan Agreement dated July 31, 1996.

6. Minutes of 1996 organizational meeting of the Board.

7. Minutes of the July 30, 1996, meeting of the Board, wherein the Bond Resolution and the Supplemental Resolution with respect to the Bonds were adopted.

8. Bond Resolution.

9. Supplemental Resolution.

10. Memorandum of Understanding.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

CERTIFICATE AS TO NON-ARBITRAGE

I, Ann O'Briant, Chairperson of the Public Service Board of Logan County Public Service District, in Logan County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $1,980,000 aggregate principal amount of Water Revenue Bonds (Cow Creek Project), Series 1996 B, dated July 31, 1996 (the "Bonds"), hereby certify as follows:

1. This certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986 and applicable regulations (the "Code"). I am one of the officers of the Issuer charged with the responsibility of issuing the Bonds. I am familiar with the facts, circumstances and estimates herein certified and am duly authorized to execute and deliver this certificate on behalf of the Issuer.

2. This certificate may be relied upon as the certificate of the Issuer.

3. The Issuer has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer and certification of which may not be relied upon by holders of obligations of the Issuer or that there is any disqualification of the Issuer by the Internal Revenue Service because a certification made by the Issuer contains a material misrepresentation.

4. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on July 31, 1996, the date on which the Bonds are to be physically delivered in exchange for the proceeds representing more than a de minimus amount of the issue price thereof, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

5. In the Bond Resolution pursuant to which the Bonds are issued, the Issuer has covenanted to make no use of the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code.

6. The Bonds were sold on July 31, 1996, to the West Virginia Water Development Authority (the "Authority") for an aggregate purchase price of $1,980,000 (100% of the principal amounts thereof).

7. The Bonds are being delivered simultaneously with the delivery of this certificate and are issued for the purposes of (i) permanently financing a portion of the costs

of acquisition and construction of certain improvements and extensions to the existing waterworks system of the Issuer (the "Project") and (ii) paying costs of issuance and other costs in connection therewith.

8. Construction and acquisition of the Project will proceed with due diligence to completion. Construction of the Project is expected to be completed by June 1997.

9. The Issuer has received funding from the Abandoned Mines Lands (the "AML "). Sources and uses of funds for the Project are as follows:

SOURCES

Bonds	$ 1,980,000
AML Funding	$ 3,693,000
Total Sources	$ 5,673,000

USES

Construction Contracts	$ 4,844,480
Technical Service	$ 460,000
Legal and Fiscal	$ 13,000
Administrative	$ 20,000
Site and Other Lands	$ 50,000
Contingency	$ 272,520
Closing Costs	$ 13,000
Total Uses	$ 5,673,000

Except for the AML Funding and proceeds of the Bonds and as otherwise provided in the Resolution, no other funds of the Issuer will be available to meet the costs of the Project and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

10. Pursuant to Article V of the Bond Resolution, the following special funds or accounts have been continued and/or created:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Construction Trust Fund;

(4) Rebate Fund; and

(5) Series 1996 B Bonds Sinking Fund, and within the Series 1996 B Bonds Sinking Fund, the Series 1996 B Bonds Reserve Account.

11. Moneys held in the Sinking Fund will be used solely to pay principal of and interest on the Bonds and will not be available to meet costs of construction of the Project. To the extent not required by the Resolution to be deposited in the Earnings Fund and the Rebate Fund, all investment earnings on moneys in the Series 1996 B Bonds Sinking Fund and the Series 1996 B Bonds Reserve Account, will be placed in the Earnings Fund for use in accordance with the terms thereof.

12. Except for the Sinking Fund and the Reserve Account therein, there are no other funds or accounts established or held by the Issuer which are reasonably expected to be used to pay debt service on the Bonds, or which are pledged as collateral for the Bonds, and for which there is a reasonable assurance that amounts therein will be available to pay debt service on the Bonds, if the Issuer encounters financial difficulties. The Issuer does not expect that moneys in the Renewal and Replacement Fund will be used or needed for payments upon the Bonds. Except as provided herein, no funds which have been or will be used to acquire directly or indirectly securities, obligations, annuity contracts or other investment-type property producing a yield in excess of the yield on the Bonds, have been or will be pledged to payment of the Bonds. Less than 10% of the proceeds of the Bonds will be deposited in the Reserve Account or any other reserve or replacement fund. The amounts deposited in the Reserve Account from time to time by the Issuer will not exceed the maximum annual principal and interest on the Bonds and will not exceed 125% of average annual principal and interest on the Bonds. The amount in the Reserve Account, not to exceed 10% of the proceeds of the Bonds, if invested, will be invested without yield limitation. The establishment of the Reserve Account is required by the Authority and is vital to its purchase of the Bonds and is reasonably required to assure payments of debt service on the Bonds.

13. The Issuer anticipates entering into contracts for the construction of the Project on May 96, and construction is underway.

14. Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within one year.

15. The Issuer will comply with the provisions of the Code, for which the effective date precedes the date of delivery of its Bonds to the Authority.

16. With the exception of the amounts deposited in the Sinking Fund, for payment of interest on the Bonds and amounts deposited in the Reserve Account, if any, all of the proceeds of the Bonds will be expended on the Project within 18 months from the date of issuance thereof.

17. Any money deposited in the Sinking Fund for payment of the principal and interest on the Bonds (other than the Reserve Account therein) will be spent within a

thirteen month period beginning on the date of receipt and any moneys received from investment of amounts held in the Sinking Fund (other than the Reserve Account therein) will be spent within a one-year period beginning the date of receipt.

18. All the proceeds of the Bonds which were used for the payment of costs of the Project will be expended for such purposes within three years of June 4, 1996.

19. The amount designated as cost of issuance of the Bonds consists only of costs which are directly related to and necessary for the issuance of the Bonds.

20. All property financed with the proceeds of the Bonds will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

21. The Issuer shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

22. No more than 10% of the proceeds of the Bonds will be used (directly or indirectly) in any trade or business carried on by, and less than 5% of the proceeds of the Bonds have been or will be used to make or finance loans to, any person who is not a governmental unit.

23. The original proceeds of the Bonds will not exceed the amount necessary for the purposes of issue.

24. The Issuer shall use the proceeds of the Bonds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the Issuer.

25. The Issuer shall not permit at any time or times any of the proceeds of the Bonds, or any other funds of the Issuer, to be used directly or indirectly in a manner which would result in the exclusion of Bonds from treatment afforded by Section 103(a) of the Code by reason of classification of the Bonds as "private activity bonds" within the meaning of the Code. The Issuer will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Bonds is excludable from gross income for federal income tax purposes.

26. The Bonds, in whole or in part, are not and will not be, directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

27. The Issuer will rebate to the United States the amount, if any, required by the Code and to take all steps necessary to make such rebates. In the event the Issuer fails to make such rebates as required, the Issuer shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds.

28. The Issuer has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the Bonds.

29. The Issuer shall comply with the yield restriction on the proceeds of the Bonds as set forth in the Code.

30. The Issuer has either (a) funded the Reserve Account at the maximum amount of principal and interest which will mature and become due on the Bonds in the then current or any succeeding year with the proceeds of the Bonds, or (b) created the Reserve Account which will be funded with equal payments on a monthly basis over a 10 year period until such Reserve Account holds an amount equal to the maximum amount of principal and interest which will mature and become due on each Series of Bonds in the then current or any succeeding year. Moneys in the Reserve Account and the Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

31. The Issuer shall submit to the Authority within 30 days following the end of the Issuer's bond year a certified copy of its rebate calculation or if the Issuer qualifies for an exception to rebate, then the Issuer shall submit to the Authority a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Bonds subject to rebate.

32. The Issuer expects that no part of the Project financed by the Bonds will be sold or otherwise disposed of prior to the last maturity date of the Bonds.

33. The Issuer covenants and agrees to comply with the rebate requirements of the Code if not exempted therefrom, and with all other requirements of the Code necessary, proper or desirable to maintain the tax-exempt status of the Bonds.

34. Jackson & Kelly is entitled to rely upon the representations, expectations, covenants, certifications and statements contained herein in rendering its opinions regarding the tax-exempt status of interest on the Bonds.

35. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

IN WITNESS WHEREOF, I have set my hand this 31st day of July, 1996.

LOGAN COUNTY PUBLIC SERVICE
DISTRICT

By Mrs. Gen O'Brian
Chairperson, Public Service Board

43336

Form **8038-G** (Rev. May 1995) Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate instructions.

(Note: *Use Form 8038-GC if the issue price is under $100,000.*)

OMB No. 1545-0720

If Amended Return, check here ▶ ☐

Part I Reporting Authority

1 Issuer's name: Logan County Public Service District

2 Issuer's employer identification number: 55 0586048

3 Number and street (or P.O. box if mail is not delivered to street address): Suite 507, White & Browning Building

Room/suite

4 Report number: G19 96 - 2

5 City, town, or post office, state, and ZIP code: Logan, West Virginia 25601

6 Date of issue: 7/31/96

7 Name of issue: Logan County Public Service District $1,980,000 Water Revenue Bonds (Cow Creek Project), Series 1996 B

8 CUSIP number: N/A

Part II Type of Issue (check applicable box(es) and enter the issue price)

9	☐ Education (attach schedule–see instructions)	9	$
10	☐ Health and hospital (attach schedule–see instructions)	10	
11	☐ Transportation	11	
12	☐ Public safety	12	
13	☒ Environment (including sewage bonds) (Water)	13	$1,980,000
14	☐ Housing	14	
15	☐ Utilities	15	
16	☐ Other. Describe (see instructions) ▶	16	

17 If obligations are tax or other revenue anticipation bonds, check box ▶ ☐

18 If obligations are in the form of a lease or installment sale, check box ▶ ☐

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	6/1/2036	3.00 %	21,649.16	21,649.16			
20 Entire issue			1,980,000	1,980,000	23.159 years	4 %	3.00 %

3.0112503

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21	Proceeds used for accrued interest	21	–0–
22	Issue price of entire issue (enter amount from line 20, column (c))	22	1,980,000
23	Proceeds used for bond issuance costs (including underwriters' discount)	23	13,000
24	Proceeds used for credit enhancement	24	–0–
25	Proceeds allocated to reasonably required reserve or replacement fund	25	–0–
26	Proceeds used to currently refund prior issues	26	–0–
27	Proceeds used to advance refund prior issues	27	–0–
28	Total (add lines 23 through 27)	28	13,000
29	Nonrefunding proceeds of the issue (subtract line 28 from line 22 and enter amount here)	29	1,967,000

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

30 Enter the remaining weighted average maturity of the bonds to be currently refunded ▶ N/A years

31 Enter the remaining weighted average maturity of the bonds to be advance refunded ▶ N/A years

32 Enter the last date on which the refunded bonds will be called ▶ N/A

33 Enter the date(s) the refunded bonds were issued ▶

Part VI Miscellaneous

34	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	34	
35	Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception)	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	
b	Enter the final maturity date of the guaranteed investment contract ▶		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☒ and enter the name of the issuer ▶ State of West Virginia** and the date of the issue ▶ June 4, 1996

38 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

39 If the issuer has identified a hedge, check box ▶ ☐

Please Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Mrs. Ann O'Briant 7-31-96

Signature of issuer's authorized representative — Date

Ann O'Briant, Chairperson

Type or print name and title

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Cat. No. 63773S Form 8038-G (Rev. 5-95)

Printed on recycled paper

**Infrastructure General Obligation Bonds, Series 1996 A

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996

CERTIFICATE OF WEST VIRGINIA
DIVISION OF ENVIRONMENTAL PROTECTION

I, Eric Coberly, P.E., Registered Professional Engineer, West Virginia License No. 10619, West Virginia Division of Environmental Protection ("DEP"), hereby certify, to the best of my knowledge, that I am the Project Manager for the construction of certain improvements and extensions to the existing waterworks system (herein called the "Project") of Logan County Public Service District (the "District") to be constructed in Logan County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the District. Capitalized words not defined herein shall have the meaning set forth in the Bond Resolution adopted by the Public Service Board of the District on July 30, 1996, and the Loan Agreement by and between the District and the West Virginia Water Development Authority (the "Authority") dated July 31, 1996. DEP and the District entered into a Memorandum of Understanding ("MOU") on January 25, 1996.

1. The Project is estimated to cost $5,673,000 and is being funded by (i) the AML Funding; and (ii) the Bonds totaling in the aggregate principal amount of $1,980,000.

2. The Bonds are being issued for the purpose of providing water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County.

3. The undersigned hereby certifies, to the best of my knowledge, that (i) the Project will be constructed in accordance with the approved plans, specifications and designs and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and approved by all necessary governmental bodies, (ii) DEP has received bids for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the MOU and DEP has ascertained that all contractors have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy and completeness and DEP has entered into the contracts with respect to said bids, (iii) DEP or the District has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (iv) that the net proceeds of the Bonds, together with the AML Funding, are sufficient to pay the costs of construction and acquisition of the Project as set forth in the MOU.

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996

CERTIFICATE OF MANAGING ENGINEER

I, Charles R. Roberts, Jr., Registered Professional Engineer, West Virginia License No. 10424, Managing Engineer of the Logan County Public Service District, hereby certify with respect to the construction and acquisition of certain improvements and extensions to the existing waterworks system (herein called the "Project") of Logan County Public Service District (the "District") to be constructed in Logan County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the District. Capitalized words not defined herein shall have the meaning set forth in the Bond Resolution adopted by the Public Service Board of the District on July 30, 1996, and the Loan Agreement by and between the District and the West Virginia Water Development Authority (the "Authority") dated July 31, 1996. West Virginia Division of Environmental Protection "(DEP") and the District entered into a Memorandum of Understanding ("MOU") on January 25, 1996.

1. The Project is estimated to cost $5,673,000 and is being funded by (i) the AML Funding; and (ii) the Bonds totaling in the aggregate principal amount of $1,980,000.

2. The Bonds are being issued for the purpose of providing water service to the communities of Cow Creek, Sarah Ann, Crystal Block and surrounding areas, Logan County.

3. The undersigned hereby certifies that (i) the Project is adequate for the purpose for which it was designed and has an estimated useful life of at least forty years, (ii) the District or DEP has obtained all permits required by the laws of the State and the federal government necessary for the construction of the Project, (iii) the rates and charges for the System as adopted by the Public Service Board of the District and approved by the Public Service Commission of West Virginia are sufficient to comply with the provisions of Subsection 4.1(b)(ii) of the Loan Agreement and (iv) attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 31st day of July, 1996.

[SEAL]

CHARLES R. ROBERTS, JR. REGISTERED 10424 STATE OF WEST VIRGINIA PROFESSIONAL ENGINEER

Charles R. Roberts, Jr., Managing Engineer
License No. 10424

CHASFS3:45780

EXHIBIT A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

SCHEDULE B

NAME OF GOVERNMENTAL AGENCY: Logan County PSD

PROJECT DESCRIPTION: Cow Creek Water Project

FINAL TOTAL COST OF PROJECT, SOURCES OF FUNDS AND COST OF FINANCING

A. COST OF PROJECT

1.	Construction (Based on Actual Bids)	$ 4,844,480
2.	Technical Services	$ 460,000
3.	Legal and Fiscal	$ 13,000
4.	Administrative	$ 20,000
5.	Site and Other Lands	$ 50,000
6.	Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: _____)	$ N/A
7.	Interim Financing Costs	$ 0
8.	Contingency	$ 272,520
9.	Total of Lines 1 through 8	$ 5,660,000

B. SOURCES OF FUNDS

10.	Federal Grants[1]	(Specify Sources): None	$ 0
			$ 0
11.	State Grants[1]	(Specify Sources): Abandoned Mine Lands	$ 3,693,000
			$ 0
12.	Other Grants[1]	(Specify Sources): None	$ 0
			$ 0
13.	Any Other Source[2]	(Specify): None	$ 0
			$ 0
14.	Infrastructure Council Grant		$ 0
15.	Total of Lines 10 through 14		$ 3,693,000
16.	Net Proceeds Required from Bond Issue (Line 9 less Line 15)		$ 1,967,000

C. IF BOND ISSUE, COST OF FINANCING

17.	Funded Reserve Account[3]	$ 0
18.	Other Costs[4]	$ 13,000
19.	Total Cost of Financing (Lines 17 and 18)	$ 13,000
20.	Size of Bond Issue (Line 16 plus Line 19)	$ 1,980,000

SCHEDULE B

1. Attach supporting documentation.
2. Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation.
3. Consult with bond counsel and the Authority before assuming a funded reserve.
4. For example, fees of accountants, bond counsel and local counsel for the Governmental Agency.

Additional or explanatory material may be provided on additional sheets attached to Schedule B.

Rick Roberts
SIGNATURE OF APPLICANT

DATE: July 22, 1996

Charles R Roberts Jr.
SIGNATURE OF CONSULTING ENGINEER

DATE: July 22, 1996

C. JEFFREY VALLET, CPA
OWNER

AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS
WV ASSOCIATION OF
CERTIFIED PUBLIC ACCOUNTANTS

Vallet & Associates, AC
210 DINGESS STREET
LOGAN, WEST VIRGINIA 25601
(304) 752-1272

July 1, 1996

Public Service Board
Logan County Public Service District
Logan, West Virginia 25601

Re: $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996

We have been asked to determine if the Logan County Public Service District (the "District") has achieved sufficient coverage of its existing and proposed debt service prior to the issuance of additional parity bonds. The Prior Resolution requires the annual net revenue for the twelve month period prior to the issuance of additional parity bonds to be at least 120% of the total maximum amount of principal and interest falling due in any one subsequent year on the bonds currently outstanding and on the proposed bonds.

The District currently has outstanding the Prior Bonds as defined in the Resolution dated July 1, 1991, November 4, 1992, October 4, 1993, March 8, 1994, November 15, 1995 and March 11, 1996 (the "Prior Bonds"). The District intends to issue $1,980,000 in Water Revenue Bonds, Series 1996 on a parity with the Prior Bonds.

Based upon the above assumptions, we certify the District's annual net revenues at June 30, 1996, are at least 120% of the total maximum amount of existing and proposed interest and principal that will become due in any one subsequent year of the currently outstanding Prior Bonds and proposed Bonds and that the District has met the parity requirements of the Prior Resolution.

Very truly yours,

Vallet & Associates AC
VALLET & ASSOCIATES, AC

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 31st day of July, 1996, by and between LOGAN COUNTY PUBLIC SERVICE DISTRICT, a public corporation organized and existing under the laws of, and a political subdivision of, the State of West Virginia (the "Governmental Agency"), and BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, a national banking association (the "Registrar").

WHEREAS, the Governmental Agency has, contemporaneously with the execution hereof, issued and sold its $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B, in the form of one bond numbered R-1 (the "Bonds"), pursuant to a Bond Resolution and a Supplemental Resolution duly adopted July 30, 1996 (collectively the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Governmental Agency of a Registrar for the Bonds; and

WHEREAS, the Governmental Agency desires to appoint, and by the Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Governmental Agency and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the Governmental Agency advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Governmental Agency with appropriate records of all transactions carried out by it as Registrar and to furnish the Governmental Agency with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Governmental Agency may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Governmental Agency.

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

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

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

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

GOVERNMENTAL AGENCY:

Logan County Public Service District
201 ½ Stratton Street
Logan, West Virginia 25601
Attention: Chairperson

REGISTRAR:

Bank One, West Virginia, National Association
P.O. Box 1113
Charleston, West Virginia 25324
Attention: Trust Department

The Governmental Agency and the Registrar shall notify the other in writing of any change of address.

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

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT

By: Mrs. Gene O'Briant
Chairperson, Public Service Board

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION

By: Teresa L. Davis
Teresa L. Davis, Vice President

43340

EXHIBIT A

(See Tab Nos. 2.2 and 2.3)

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

ACCEPTANCE OF DUTIES OF DEPOSITORY BANK

Bank One, West Virginia, National Association, Logan, a national banking association, with its principal office in Logan, West Virginia, hereby accepts appointment as the Depository Bank in connection with a Bond Resolution duly adopted by Logan County Public Service District on July 30, 1996, and the Supplemental Resolution adopted July 30, 1996 (collectively, the "Resolution"), authorizing issuance of the Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B, dated July 31, 1996, in the aggregate principal amount of $1,980,000 (the "Bonds") and agrees to perform all duties of the Depository Bank in connection with such Bonds, all as set forth in said Resolution.

Witness my signature as of the 31st day of July, 1996.

BANK ONE, WEST VIRGINIA,
NATIONAL ASSOCIATION

By: E. L. Brewster, Senior Vice President

43341

REQUEST AND AUTHORIZATION AS TO AUTHENTICATION AND DELIVERY OF THE BONDS

July 31, 1996

Bank One, West Virginia, National Association
P.O. Box 1113
Charleston, West Virginia 25324

Ladies and Gentlemen:

We herewith hand to you, duly executed (a) $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B, in the form of one bond numbered R-1 (the "Bonds"), authorized to be issued under and pursuant to the Bond Resolution, duly adopted by the Public Service Board (the "Board") of Logan County Public Service District (the "District") on July 30, 1996, and a Supplemental Resolution adopted by the Board on July 30, 1996 (collectively, the "Resolution").

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

LOGAN COUNTY PUBLIC SERVICE DISTRICT

By: Mrs. Gene O'Briant
Chairperson, Public Service Board

(SEAL)

Attest:
James R. Jeffries
Secretary, Public Service Board

43342

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

CERTIFICATE OF REGISTRATION OF BONDS

I, Teresa L. Davis, Vice President of Bank One, West Virginia, National Association, as Registrar (the "Registrar"), hereby certify that on the 31st day of July, 1996, (a) the bonds of Logan County Public Service District in the principal amount of $1,980,000 designated "Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B" (the "Series 1996 B Bonds"), numbered R-1, and dated as of the date hereof, were registered as to principal and interest in the name of "West Virginia Water Development Authority" in the books of the District kept for that purpose at our office, by a duly authorized officer on behalf of Bank One, West Virginia, National Association, West Virginia, as Registrar.

WITNESS my signature as of the 31st day of July, 1996.

BANK ONE, WEST VIRGINIA, NATIONAL ASSOCIATION, as Registrar

By: Teresa L. Davis
Its: Vice President

43343

LOGAN COUNTY PUBLIC SERVICE DISTRICT

$1,980,000 Water Revenue Bonds (Cow Creek Project),
Series 1996 B

RECEIPT FOR BONDS

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

1. On the 31st day of July, 1996, in Dunbar, West Virginia, the Authority received (a) the entire original issue of $1,980,000 in aggregate principal amount of Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B (the "Bonds"), said Bonds being dated the 31st day of July, 1996; and issued in the form of one bond, fully registered to the Authority, and numbered R-1.

2. At the time of receipt of such Bonds, they had been executed by Ann O'Briant, Chairperson of the Public Service Board of the District, by manual signature, and attested by James R. Jeffrey, Secretary of the Public Service Board of the District, by manual signature, and the official seal of said District had been impressed upon each Bond.

IN WITNESS WHEREOF, Barbara B. Meadows duly signed and delivered this receipt on behalf of the West Virginia Water Development Authority on the 31st day of July, 1996.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Barbara B. Meadows
Secretary-Treasurer

43345

LOGAN COUNTY PUBLIC SERVICE DISTRICT

Water Revenue Bonds (Cow Creek Project),
Series 1996 B

RECEIPT FOR BOND PROCEEDS

The undersigned, James R. Jeffrey, Secretary of the Public Service Board of the Logan County Public Service District (the "District"), hereby certifies as follows:

1. The District has received and hereby acknowledges receipt from the West Virginia Water Development Authority (the "Authority"), as original purchaser of the Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B, $462,000, being more than a de minimus amount of the purchase price of said bonds, the remainder to be advanced from time to time up to $1,980,000.

IN WITNESS WHEREOF, Logan County Public Service District has caused this receipt to be executed by the Secretary of its Public Service Board on this 31st day of July, 1996.

LOGAN COUNTY PUBLIC SERVICE
DISTRICT

By _____
SECRETARY, PUBLIC SERVICE BOARD

43346

UNITED
NATIONAL BANK
Charleston, WV 25392

TRUST DIVISION
CORPORATE TRUST SERVICES

10593

69-39
519

TRUST NO: 71 00 9225 37 7-WVIF 1996 A

DATE JUL 31, 1996

FOUR HUNDRED SIXTY TWO THOUSAND AND 00/100

AMOUNT ***$462,000.00

PAY TO THE ORDER OF:

LOGAN COUNTY P.S.D.

TRUST DEPARTMENT

TRUST OFFICER

⑈010593⑈ ⑆051900395⑆ 4700 1937⑈

WV MUNICIPAL BOND COMMISSION
Suite 337 Building 3
1800 Washington St. E
State Capitol Complex
Charleston, WV 25305
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: July 31, 1996

(See Reverse for Instructions)

ISSUE: Logan County Public Service District $1,980,000 Water Revenue Bonds (Cow Creek Project), Series 1996 B

ADDRESS: Suite 507, White & Browning Building, Logan, West Virginia 25601 COUNTY: Logan

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

ISSUE DATE: July 31, 1996 CLOSING DATE: July 31, 1996

ISSUE AMOUNT: $ 1,980,000 RATE: 3%

1st DEBT SERVICE DUE: December 1, 1997 1st PRINCIPAL DUE: December 1, 1997

1st DEBT SERVICE AMOUNT: 21,649.00 PAYING AGENT: Municipal Bond Commission

ISSUERS
BOND COUNSEL: Jackson & Kelly
Contact Person: Samme L. Gee
Phone: (304) 340-1318
CLOSING BANK: Bank One, WV, Logan
Contact Person: E. L. Brewster
Phone: (304)752-1023
KNOWLEDGEABLE ISSUER CONTACT
Contact Person: Rick Roberts
Position: Managing Engineer
Phone: (304)752-1139

UNDERWRITERS
BOND COUNSEL: N/A
Contact Person: ____
Phone: ____
ESCROW TRUSTEE: N/A
Contact Person: ____
Phone: ____
OTHER: Bank One, WV, N.A.
Contact Person: Teresa Davis
Function: Registrar
Phone: (304)348-4411

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: ____

FOR MUNICIPAL BOND COMMISSION USE ONLY:
DOCUMENTS REQUIRED: ____
TRANSFERS REQUIRED: ____

The purpose of the **NEW ISSUE REPORT FORM** is to provide the WV Municipal Bond Commission with an early warning of three basis facts no later than the day of closing on any issue for which the Commission is to act as fiscal agent. These are:

1. Formal notification that a new issue is outstanding.
2. Date of first action or debt service.
3. Contact people should we lack documents, information, or funds needed to administer the issue by the date of the first action or debt service.

The Commission recognizes that as bond transcripts become increasingly long and complex, it has become more difficult to assemble and submit them to the Commission within the 30 days specified by the WV Code 13-3-8. This notice is not intended to provide all the information needed to administer an issue, but to alert the Commission and ensure that no debt service payments are missed due to delays in assembling bond transcripts. If, at the time of closing, documents such as the ordinance and all suppliments, debt service schedules, and a specimen bond or photostat are available and submitted with this form, it will greatly aid the Commission in the performance of its duties. These documents are needed to set up the proper accounts and to advise the issuer of monthly deposit requirements as far in advance of the first debt service as possible.

It is not necessary to complete all items if they are not pertinent to your issue. Indicate the County of the issuer. With PSDs that overlap more than one county, indicate the county of their business office. Complete "Rate" only if the issue has only one rate. Please complete a separate form for each series of an issue. Other important information can be recorded under "Notes".

Again, please submit this form on each new issue on the day of closing. If fund transfers into or out of the Commission at close are required, please submit this form before closing. If no significant facts change by closing, no resubmission at close is required. If, however, there are changes, please submit an updated form, with changes noted, at close.

If you should have any questions concerning this form, please call the Commission.

JACKSON & KELLY
ATTORNEYS AT LAW
1600 LAIDLEY TOWER
P. O. BOX 553
CHARLESTON, WEST VIRGINIA 25322

TELEPHONE 304-340-1000 TELECOPIER 304-340-1130

WRITER'S DIRECT DIAL NO.

300 FOXCROFT AVENUE
MARTINSBURG, WEST VIRGINIA 25401
TELEPHONE 304-263-8800

256 RUSSELL AVENUE
NEW MARTINSVILLE, WEST VIRGINIA 26155
TELEPHONE 304-455-1751

6000 HAMPTON CENTER
MORGANTOWN, WEST VIRGINIA 26505
TELEPHONE 304-599-3000

700 EAST WASHINGTON STREET
CHARLES TOWN, WEST VIRGINIA 25414
TELEPHONE 304-728-6088

800 GARFIELD AVENUE
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE 304-422-1419

1660 LINCOLN STREET
DENVER, COLORADO 80264
TELEPHONE 303-837-0003

175 EAST MAIN STREET
LEXINGTON, KENTUCKY 40595
TELEPHONE 606-255-9500

2401 PENNSYLVANIA AVENUE N.W.
WASHINGTON, D.C. 20037
TELEPHONE 202-973-0200

1000 TECHNOLOGY DRIVE
FAIRMONT, WEST VIRGINIA 26554
TELEPHONE 304-368-2000

Jackson & Kelly is a member of Lex Mundi, a global association of more than 120 independent law firms.

July 31, 1996

West Virginia Infrastructure and
Jobs Development Council
c/o West Virginia Water Development
Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Public Service Board
Logan County Public Service District
201 ½ Stratton Street
Logan, West Virginia 25601

Re: Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B

Ladies and Gentlemen:

We are bond counsel to Logan County Public Service District (the "Governmental Agency"), a duly organized and presently existing public service district and public corporation under the laws of the State of West Virginia.

We have examined a certified copy of proceedings and other papers relating to (i) the authorization of a loan agreement, dated July 31, 1996, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), and (ii) the issue of the Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996 B of the Governmental Agency, dated July 31, 1996 (the "Bonds") to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are in the principal amount of $1,980,000, issued in the form of one bond registered as to principal and interest to the Authority, with interest and principal payable in installments on September 1, December 1, March 1 and June 1 of each year, beginning December 1, 1997, at the rate as set forth in Exhibit A incorporated in and made a part of the Bonds. The Bonds

are on a parity as to security and source of payment with the Governmental Agency's Prior Bonds, as defined in the Resolution.

The Bonds are issued for the purposes of paying a portion of the costs of acquiring and constructing certain improvements and extensions to the existing public waterworks system for the Governmental Agency and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Local Statute"), under which the Bonds are issued, and the Loan Agreement that has been undertaken, including all schedules and exhibits to the Loan Agreement. The Bonds have been authorized by a bond resolution and a supplemental resolution (collectively, the "Resolution") duly passed by the Governmental Agency on July 30, 1996 (collectively the "Local Act"), pursuant to and under which Local Statute and Local Act the Bonds are authorized and issued, and the Loan Agreement that has been undertaken. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

In connection with the issuance of the Bond, the Governmental Agency has executed a Certificate as to Non-Arbitrage, dated as of the date hereof (the "Certificate as to Non-Arbitrage"), which, among other things, sets forth restrictions on the investment and expenditure of the Bond proceeds and earnings thereon, to ensure that the arbitrage requirements of the Internal Revenue Code of 1986, as amended, and regulations thereunder (collectively, the "Code"), necessary to establish and maintain the excludability of interest on the Bond from gross income for federal income tax purposes, are and will continue to be met.

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

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

2. The Loan Agreement inures to the benefit of the Authority, acting on behalf of the West Virginia Infrastructure and Jobs Development Council, and cannot be amended so as to affect adversely the rights of the Authority and Council or diminish the obligations of the Governmental Agency without the consent of the Authority and Council.

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

4. The Governmental Agency has legally and effectively adopted the Local Act and all other necessary resolutions and orders in connection with the issuance and sale of the Bonds. The Local Act contains provisions and covenants substantially in the form of those set forth in the Loan Agreement.

5. The Bonds are valid and legally enforceable special obligations of the Governmental Agency, payable from the net revenues of the System referred to in the Local Act and are secured by a first lien on and pledge of the net revenues of said System on a parity as to security and source of payment with the Prior Bonds, as defined in the Resolution, all in accordance with the terms of the Bonds and the Local Act, and have been duly issued and delivered to the Authority. The Governmental Agency has met the coverage requirements for issuance of parity bonds under the Prior Resolutions based upon the certificate of the independent certified public accountant, and has substantially complied with all other parity requirements, except to the extent that noncompliance with any other parity requirements is not of a material nature.

6. The Governmental Agency has reserved the right to issue additional bonds ranking on a parity with the Bonds, as provided in the Local Act and pursuant to the Resolution and the Prior Resolutions.

7. The interest on the Bonds is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in the preceding sentence is subject to the condition that the Governmental Agency comply, on a continuing basis, with all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bond set forth in the Bond Resolution and the Certificate as to Non-Arbitrage and with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be (or continue to be) excludable from gross income for federal income tax purposes. The Governmental Agency has covenanted to comply with all such requirements. Failure to comply with such certifications, covenants, representations and requirements could cause the interest on the Bonds to be includable in gross income

retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences with respect to the Bonds.

8. The Bonds and the interest thereon are, by the Local Statute, exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

It is to be understood that the rights of the holders of the Bonds and the enforceability of the Bonds and the Local Act may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that such enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

We have examined the executed Series 1996 B Bond numbered R-1, and in our opinion the form of said bond and its execution and authentication are regular and proper.

Very truly yours,

Jackson & Kelly

43349

James A. Walker
Counselor and Attorney at Law
Suite 201 • White & Browning Bldg.
201½ Stratton Street
P.O. Box 358
Logan, West Virginia 25601
Phone (304) 752-0757
Fax (304) 752-0758

July 30, 1996

West Virginia Infastructure in
Jobs Development Counsel
c/o West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Jackson & Kelly
Attorneys at Law
P.O. Box 553
Charleston, West Virginia 25322

RE: $1,980,000 Logan County Public Service District Water Revenue Bonds (Cow Creek Project), Series 1996B

Ladies and Gentlemen:

I am Counsel to the Logan County Public Service District (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson & Kelly, as bond counsel, relating to the above-captioned bonds, dated July 30, 1996, a Bond Resolution adopted by the Issuer on July 30, 1996, as supplemented by the Supplemental Resolution adopted July 30, 1996, (collectively, the "Bond Resolution") and other documents relating to the above-captioned Bond of the Issuer. Terms used in said opinions and Bond Resolution and not otherwise defined herein have the same meanings herein.

I am of the opinion that:

1. The members of the Public Service Board of the Issuer were duly and properly appointed and are thereby authorized to act on behalf of the Issuer.

2. The Bond Resolution has been duly adopted by the Issuer and is in full force and effect.

3. The Issuer has received a Final Order from the Public Service Commission of West Virginia granting approval of the financing, including the above-referenced Bond, granting a

Certificate of Convenience and Necessity and approving rates for the Project and said Order is in full force and effect and the right for appeal therefrom has been waived by all parties who have such right to appeal.

4. The Issuer has received all the necessary permits, licenses, approvals and authorizations that are presently obtainable to acquire and construct the Project.

5. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any Court, public council or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Resolution, the validity of the Bond or the collection or pledge of the Net Revenues, as defined in the Bond Resolution.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very Truly Yours,

James A. Walker
Attorney for Logan
County Public Service District

JAW:rmp