LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

Closing Date: February 25, 2010

TRANSCRIPT OF PROCEEDINGS

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State of West Virginia

WATER DEVELOPMENT AUTHORITY

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

PRECLOSING ATTENDANCE LIST

Date Feb 24 Time 4pm. LGA Lubeck PSD Program IC

NAME	COMPANY, AGENCY, OR ORGANIZATION	TELEPHONE	FAX	E-MAIL
Carol A. Cummings	WV Water Dev Auth.	304-558-3612	304-558-0299	CCummings@wvwda.org
Sammie Cee	Jackson Kelly PLLC	304.340.1318	304.340 1292	Scee@jacksonkelly.com
MARK KAUFFELT	WDA / KAUFFELT & KAUFFELT	304-345-1272	304-345-1280	MKAUFFELT@WVDSL.NET

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

Name Jim Cox Telephone 304. 863.3341 E-Mail lubeckpsd@casinteknet.net

Address P.O. Box 700, Washington, WV 26181

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

State of West Virginia

Certificate

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

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE, AND CHAPTER 16, ARTICLE 13A OF THE 2009 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

February 22, 2010

Natalie E Tennant

Secretary of State

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

Section

16-13A-1. Legislative findings.
16-13A-1a. Jurisdiction of the public service commission.
16-13A-1b. County commissions to develop plan to create, consolidate, merge, expand or dissolve public service districts.
16-13A-1c. General purpose of districts.
16-13A-2. Creation of districts by county commission; enlarging, reducing, merging, or dissolving district; consolidation; agreements, etc.; infringing upon powers of county commission; filing list of members and districts with the Secretary of State.
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16-13A-18. Operating contracts.
16-13A-18a. Sale, lease or rental of water, sewer, stormwater or gas system by district; distribution of proceeds.
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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.

§ 16-13A-1. Legislative findings

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

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

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

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

Cross References

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

Administrative Code References

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

Library References

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

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

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1. Validity

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

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

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

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

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

2. In general

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

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

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

3. Construction and application

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

4. Eminent domain powers

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

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

5. Property of public service district

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

6. Rates and charges for service

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

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

Note 6

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

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

7. Creation and enforcement of liens

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

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

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

8. Admissibility of evidence

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

9. Costs

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

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

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

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

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

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

Acts 1986, c. 81.

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

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

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

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

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

Cross References

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

Library References

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

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

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

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

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

Library References

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Library References

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

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

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Creation of public service districts 2
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1. Validity

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

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

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

2. Creation of public service districts

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

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

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

3. District boundaries

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

4. Notice of hearing

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

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

5. Number of voters within district

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

6. Costs

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

7. Referendum

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Law Review and Journal Commentaries

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

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

Library References

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

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

Notes of Decisions

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

1. In general

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

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

2. Standard of care

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

3. Ministerial officers, generally

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

4. Removal of members

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

5. Criminal responsibility of members

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

6. Sale of water

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

7. Tort Claims Act

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

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

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

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

Library References

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

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

Notes of Decisions

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Ministerial officers, generally 2
Sufficiency of evidence 3

1. Criminal responsibility of members

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

2. Ministerial officers, generally

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

3. Sufficiency of evidence

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

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

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

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

(b) Salaries of the board members are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–5. General manager of board

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

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

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

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

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

Library References

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

§ 16–13A–6. Employees of board

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

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

Library References

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

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

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

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

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

Library References

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

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

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

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

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1. Validity

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

Note 1

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

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

2. In general

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

3. Eminent domain powers

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

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

4. Valuation of property

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

5. Environmental assessment

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

6. Connections with sewers or drains

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

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

7. Public corporation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Law Review and Journal Commentaries

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

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

Library References

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

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

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Public service district liens 3
Rates and charges for service 4
Takings 2
Validity 1

1. Validity

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

2. Takings

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

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

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

3. Public service district liens

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

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

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

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

4. Rates and charges for service

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

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

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

5. Notice of availability of sewer service

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

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

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

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

Acts 1982, c. 74.

Library References

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

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

§ 16–13A–10. Budget

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

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

Library References

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

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

Notes of Decisions

In general 1

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1. In general

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

§ 16–13A–11. Accounts; audit

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

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

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

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

Library References

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

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

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

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

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

Library References

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

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

§ 16–13A–13. Revenue bonds

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

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

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

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

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

Library References

Counties ⇐154.5.
Municipal Corporations ⇐879.
Westlaw Topic Nos. 104, 268.
C.J.S. Municipal Corporations §§ 1621 to 1622.

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

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

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

Acts 1953, c. 147.

Library References

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

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

United States Code Annotated

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

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

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

Acts 1953, c. 147.

Library References

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

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

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

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

Acts 1953, c. 147.

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–18. Operating contracts

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

Acts 1953, c. 147.

Library References

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

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

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

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

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

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

Library References

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

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

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

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

Acts 1953, c. 147.

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–20. Refunding revenue bonds

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

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

Acts 1953, c. 147.

Library References

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

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

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

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

Library References

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

Notes of Decisions

In general 2
Validity 1

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1. Validity

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

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

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

2. In general

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

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

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

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

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

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

Library References

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

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

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

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

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

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

Library References

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

In general 1

1.- In general

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

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

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

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

(1) Experience with the same engineering firm; or

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

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

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

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

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

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

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

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

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

Library References

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

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

Research References

ALR Library

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

Notes of Decisions

In general 1
Certificate of public convenience and necessity 2

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1. In general

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

2. Certificate of public convenience and necessity

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

West's

Annotated Code of West Virginia

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

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Chapter 16

2009
Cumulative Annual Pocket Part

Replacing 2008 Pocket Part supplementing 2008 Main Volume

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Protection or the Environmental Quality Board and the authority provided herein to establish, maintain and collect rates, fees or charges is an additional and alternative method of financing such works and matters, and is independent of any other provision of this article insofar as the article provides for or requires the issuance of revenue bonds or the imposition of rates, fees and charges in connection with the bonds: *Provided,* That except for the method of financing such works and matters, the construction, acquisition, improvement, equipment, custody, operation, repair and maintenance of any plants, machinery or works in compliance with an order of the Secretary of the Department of Environmental Protection or the Environmental Quality Board and the rights, powers and duties of the municipality and the respective officers and departments thereof, including the sanitary board, are governed by the provisions of this article.

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

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

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

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

Acts 1955, c. 135; Acts 1967, c. 105; Acts 1994, c. 61; Acts 2001, c. 212, eff. 90 days after April 14, 2001; Acts 2008, c. 202, eff. March 8, 2008.

ARTICLE 13A

PUBLIC SERVICE DISTRICTS

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

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

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

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

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

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

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

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

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

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

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or stormwater facilities and the district owns and operates another kind of facility either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer

or stormwater service fees and charges: *Provided,* That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer and stormwater service has the right to terminate water service for delinquency in payment of water, sewer or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however,* That any termination of water service must comply with all rules and orders of the Public Service Commission.

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

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

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a stormwater system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C.F.R. § 122.26; (2) the district's authority has been properly expanded to operate and maintain a stormwater system; (3) the district has made available a stormwater system where stormwater from the real property affects or drains into the stormwater system; and (4) the real property is

located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined and declared that the mandatory use of the stormwater system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for stormwater services established under this article only after thirty-day notice of the availability of the stormwater system has been received by the owner. An entity providing stormwater service shall provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

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

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

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

Acts 1953, c. 147; Acts 1965, c. 134; Acts 1980, c. 60; Acts 1981, c. 124; Acts 1986, c. 81; Acts 1989, c. 174; Acts 1994, c. 61; Acts 2002, c. 272, eff. 90 days after March 9, 2002; Acts 2003, c. 183, eff. 90 days after March 8, 2003; Acts 2008, c. 202, eff. March 8, 2008.

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

United States Code Annotated

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

ARTICLE 13D

REGIONAL WATER AND WASTEWATER AUTHORITY ACT

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

United States Code Annotated

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

State of West Virginia

Certificate

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

THIS IS A TRUE COPY OF CHAPTER 31, ARTICLE 15A OF THE WEST VIRGINIA CODE, AND CHAPTER 31, ARTICLE 15A OF THE 2009 SUPPLEMENT TO THE WEST VIRGINIA CODE, AS INDICATED BY THE RECORDS OF THIS OFFICE.

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

February 22, 2010

Natalie E Tennant

Secretary of State

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

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

§ 31-15A-1. Short title

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

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

§ 31-15A-2. Definitions

For purposes of this article:

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

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

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

(d) "Council" means the West Virginia infrastructure and jobs development council created in section three of this article;

(e) "Division of environmental protection" means the division of environmental protection established under article one, chapter twenty-two of this code, or any successor to all or any substantial part of its powers and duties;

(f) "Division of health" means the division of health created in article one, chapter sixteen of this code, or any successor to all or any substantial part of its powers and duties;

(g) "Economic development authority" means the economic development authority established under article fifteen, chapter thirty-one of the code, or any successor to all or any substantial part of its powers and duties;

(h) "Emergency project" means a project which the council has determined: (1) Is essential to the immediate economic development of an area of the state; and

(2) will not likely be developed in that area if construction of the project is not commenced immediately;

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

(j) "Housing development fund" means the West Virginia housing development fund established under article eighteen of this chapter, or any successor to all or any substantial part of its powers and duties;

(k) "Infrastructure fund" means the West Virginia infrastructure fund created and established in section nine of this article;

(l) "infrastructure project" means a project in the state which the council determines is likely to foster and enhance economic growth and development in the area of the state in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes, including, without limitation, tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including facilities owned or leased by this state or any other project sponsor, and includes, without limitation:

(1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part thereof or interest therein; and

(2) preparing land for construction and making, installing or constructing improvements on the land, including water or wastewater facilities or any part thereof; steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site;

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

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

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

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

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

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

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

(t) "State development office" means the West Virginia development office established under article two, chapter five-b of this code, or any successor to all or any substantial part of its powers and duties;

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

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

(w) "Water development authority" means the West Virginia water development authority continued pursuant to the provisions of article one, chapter

twenty-two-c of this code, or any successor to all or any substantial part of its powers and duties; and

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

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

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

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

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

(c) The council shall annually elect one of its members as chairman, and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council.

No vacancy in the membership of the council impairs the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

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

(e) The council shall meet at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business, and shall meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the economic development authority shall not be subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code nor shall the governor's civil contingent fund be subject to council review with regard to projects or infrastructure projects funded through the governor's civil contingent fund.

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

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

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

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

(a) To implement and carry out the intent of this article, the council shall promulgate legislative rules in accordance with article three, chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the council and other state infrastructure agencies in evaluating any request by a project sponsor for funding assistance to plan, acquire, construct, improve or otherwise develop a project or infrastructure project. The guidelines shall include the following factors: (1) the public health benefits of the project or infrastructure project; (2) the economic development benefits of the project or infrastructure project; (3) the degree to which the project or infrastructure project will correct deficiencies in the compliance of water supply or sewage treatment facilities with state or federal laws, regulations or standards; (4) the degree to which the project or infrastructure project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to section six of this article; (5) the cost effectiveness of the project or infrastructure project as compared with

alternatives which achieve substantially the same public health or economic development benefits, including the consideration of providing maximum feasible fire protection; (6) the availability of alternative sources of funding which could finance all or a part of the project and infrastructure project, and the need for the assistance of the council to finance the project or infrastructure project or attract other sources of funding; (7) the applicant's ability to operate and maintain the system if the project or infrastructure project is approved; (8) the degree to which the project or infrastructure project achieves other state or regional planning goals; (9) the estimated date upon which the project or infrastructure project could commence if funding were available and the estimated completion date of the project or infrastructure project; and (10) such other considerations as the council may consider necessary or appropriate to accomplish the purpose and intent of this article.

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

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

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

(a) No project sponsor may apply for or receive any loan, loan guarantee, grant or other funding assistance for a project or infrastructure project from any state infrastructure agency (i) unless the project sponsor requiring the funding assistance first submits a completed preliminary application to the council on the form prepared for such purpose by the council pursuant to section four of this article, and (ii) except as may be recommended by the council after consideration of the preliminary application: Provided, That any project sponsor which has an infrastructure project or project with either

acceptable bids or all funding in place on the effective date of this act is not required to comply with the provisions of this section.

(b) The council shall, within thirty days of receipt of each completed preliminary application submitted to it, review the preliminary application and either (i) make a written recommendation as to the infrastructure project or project financing, in terms of the kind, amount and source of funding, which the project sponsor submitting the application should pursue and which the state infrastructure agency or agencies should consider an appropriate investment of public funds, or (ii) if the council determines that (1) the proposed project or infrastructure project is not eligible for funding assistance from any state infrastructure agency, or (2) the proposed project or infrastructure project is not otherwise an appropriate or prudent investment of state funds, the council shall recommend that the project sponsor not seek funding from any state infrastructure agency. A project sponsor shall include the preliminary application and the council's recommendations in any application to a state infrastructure agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

commissioner of the division of highways on the feasibility of the expansion of new or existing water and sewer lines concomitant to the construction of the new roads.

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

(c) The water development authority shall establish a restricted account within the infrastructure fund to be expended for the construction of water and sewage lines as may be recommended by the council in accordance with this article and specifically, in accordance with the plan developed under subsection (b) of this section. The reserve account shall be known as the "infrastructure road improvement reserve account". The council and the division of highways may enter into agreements to share the cost of financing projects approved in accordance with this section from moneys available in the infrastructure road reserve account and moneys available from the state road fund. Annually, the council may direct the water development authority to transfer funds from the infrastructure fund in an amount not to exceed one million dollars to the

restricted account: Provided, That at no time may the balance of the restricted account exceed one million dollars.

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

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

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

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

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

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

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

(d) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as provided in subsection (*l*), section two of this article and to include a water facility project as defined in subsection (n), section two of this article, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subsection (a) of this section are specifically made applicable to the project.

The project is hereby specifically authorized and the public land corporation shall have and may exercise the power of eminent domain and all authority otherwise prescribed by law to acquire necessary land and rights-of-way, to include approximately four hundred seventy-eight acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian regional commission through the United States soil conservation service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the division of tourism and parks or the successor to the commissioner's powers and duties is directed to expand the boundaries of North Bend state park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose.

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

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

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

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

Amounts in the infrastructure fund shall be segregated and administered by the water development authority separate and apart from its other assets and programs. Amounts in the infrastructure fund may not be transferred to any other fund or account or used, other than indirectly, for the purposes of any other program of the water development authority, except that the water development authority may use funds in the infrastructure fund to reimburse

itself for any administrative costs incurred by it and approved by the council in connection with any loan, loan guarantee, grant or other funding assistance made by the water development authority pursuant to this article.

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

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

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

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

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

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

(4) The agreement of the governmental agency to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the water development authority or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the water development authority the right to

appoint a receiver for the project or infrastructure if the project sponsor should default on any terms of the agreement.

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

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

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

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

Acts 1990, c. 2, abolished the office of commissioner of finance and administration and transferred all duties and powers to the secretary of administration. See § 5A-1-2.

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

(a) To further accomplish the purpose and intent of this article, the water development authority shall use the moneys in the infrastructure fund created pursuant to section nine of this article, upon receipt of one or more recommendations from the council pursuant to section five of this article, to make loans, with or without interest, loan guarantees or grants and to provide other assistance, financial, technical or otherwise, to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor: Provided, That any moneys disbursed from the infrastructure fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. No loan, loan guarantee, grant or other assistance shall be made or provided except upon a determination by the council that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of this article, based upon an application submitted to the council: Provided,

however, That no grant shall be made to a project sponsor that is not a governmental agency or a not for profit corporation under the provisions of section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for loans, loan guarantees, grants or other assistance may be submitted by a project sponsor for one or more infrastructure projects on preliminary application forms prepared by the council pursuant to section four of this article. Any recommendation of the council approving a loan, loan guarantee, grant or other assistance shall include a finding and determination by the council that the requirements of this section have been met. The council shall base any decisions to loan money for projects to project sponsors pursuant to this article solely on the need of the project sponsors.

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

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

project to be served, the council shall consider any surveys of the income of the households that will be served by the project.

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

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

(f) The council shall report to the governor, the speaker of the House of Delegates and the president of the Senate during each regular and interim session of the Legislature, on its activities and decisions relating to distribution or planned distribution of grants and loans under the criteria to be developed pursuant to this article.

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

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

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: Provided, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the council for

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

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

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

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

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

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

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

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

§ 31–15A–14. Termination or dissolution

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

infrastructure fund shall pass to and be vested in the state, subject to the rights of lienholders and other creditors.

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

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

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

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

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

(c) This section does not:

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

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

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

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

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

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

Historical and Statutory Notes

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

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

"(b) The state and its subdivisions shall, except as provided in this subsection, solicit competitive bids and require the payment of prevailing wage rates as provided in article five-a, chapter twenty-one of this code for every project or infrastructure project funded pursuant to this article exceeding twenty-five thousand dollars in total cost. Following the solicitation of the bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: Provided, That the state and its subdivisions may reject all bids and solicit new bids on the project. Nothing in this subsection applies to work performed on construction or repair projects not exceeding a total cost of twenty-five thousand dollars by regular full-time employees of the state or its subdivisions, nor shall anything in this subsection prevent students enrolled in vocational educational schools from being utilized in the construction or repair projects when such use is a part of the students' training program. Nothing in this subsection applies to emergency repairs to building components and systems: Provided, however, That the term "emergency repairs" means repairs that if not made immediately will seriously impair the use of the building components and systems or cause danger to those persons using the building components and systems. This subsection shall not apply to any situation where the state or a subdivision thereof comes to an agreement with volunteers, or a volunteer group, whereby the governmental body will provide construction or repair materials, architectural, engineering, technical or any other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body: Provided further, That the total cost of the construction or repair projects does not exceed twenty-five thousand dollars.

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

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

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

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

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) none of the collections from the tax imposed pursuant to section six, article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of medicaid and the division of forestry

pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

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

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

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

(a) To accomplish the purpose and intent of this article, the water development authority is hereby empowered at the written request of the council to issue from time to time infrastructure revenue bonds of the state in such principal amounts as the council deems necessary to make loans and loan guarantees and other forms of financial assistance to project sponsors for one or more projects or infrastructure projects: Provided, That the water development authority may not issue any such bonds, other than refunding bonds, unless the council by resolution determines that the aggregate cost of the projects or infrastructure projects expected to be constructed during any annual period exceeds (1) the projected annual infrastructure revenues for the same period, and (2) the principal and interest payments not otherwise pledged to the infrastructure revenue debt service fund that are due the water development authority on all outstanding loans previously made by the water development authority pursuant to the provisions of this article.

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

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

(d) There is hereby created in the water development authority a special fund which shall be designated and known as the "West Virginia Infrastructure

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

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

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

facsimile is nevertheless sufficient for all purposes to the same extent as if he or she had remained in office until such delivery, and if the seal of the water development authority has been changed after a facsimile has been imprinted on such bond, the facsimile will continue to be sufficient for all purposes.

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

(h) In the event that the sum of all reserves pledged to the payment of the bonds is less than the minimum reserve requirements established in any resolution or resolutions authorizing the issuance of the bonds, the chairman or the director of the water development authority shall certify, on or before the first day of December of each year, the amount of such deficiency to the governor of the state for inclusion, if the governor shall so elect, of the amount of such deficiency in the budget to be submitted to the next session of the Legislature for appropriation to the water development authority to be pledged for payment of such bonds: Provided, That the Legislature shall not be required to make any appropriations so requested, and the amount of such deficiencies shall not constitute a debt or liability of the state.

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

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

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

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

(b) Any trust agreement may pledge or assign the infrastructure revenue debt service fund. Any trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as are reasonable and proper and not in violation of law, including the provisions contained in section seventeen of this article, and covenants setting forth the duties of the water development authority in respect to the payment of the principal of and interest, charges and fees on loans made to, or bond purchases from, governmental agencies from the proceeds of the bonds, and the custody, safeguarding and application of all moneys. Any banking institution or trust company incorporated under the laws of this state which may act as depository of the proceeds of bonds or of the infrastructure debt service fund shall furnish such indemnifying bonds or pledge securities as are required by the water development authority. The trust agreement may set forth the rights and remedies of the bondholders and noteholders and of the trustee and may restrict individual rights of action by bondholders and noteholders as customarily provided in trust agreements or trust indentures securing similar bonds and notes. The trust agreement may contain such other provisions as the water development authority deems reasonable and proper for the security of the bondholders or noteholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as part of the cost of the construction, renovation, repair, improvement or acquisition of a project or infrastructure project.

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

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

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

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

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

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

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

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

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

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

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

§ 31–15A–22. Refunding revenue bonds

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

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

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

Infrastructure revenue bonds issued pursuant to the provisions of this article shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state. The holders or owners thereof shall have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds shall be payable solely from the

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

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

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

The exercise of the powers granted to the water development authority by this article will be in all respects for the benefit of the people of the state, for the improvement of their health, safety, convenience and welfare and for the enhancement of their residential, agricultural, recreational, economic, commercial and industrial opportunities and is for a public purpose. As the construction, acquisition, repair or renovation of projects or infrastructure projects will constitute the performance of essential governmental functions, the water development authority shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by the water development authority or upon the income therefrom. The infrastructure revenue bonds and all interest and income thereon shall be exempt from all taxation by this state, or any county, municipality, political subdivision or agency thereof, except estate taxes.

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

West's

Annotated Code of West Virginia

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

Chapters 31 to 31E

2009
Cumulative Annual Pocket Part

Replacing 2008 Pocket Part supplementing 2002 Main Volume

Includes laws through the 2009 Second Extraordinary Session

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Fund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section or section eleven-a, article six, chapter five of this code. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of section eleven-a, article six, chapter five of this code. The Education, Arts, Sciences and Tourism Debt Service Fund shall be pledged solely for the repayment of bonds issued pursuant to this section and section eleven-a, article six, chapter five of this code. On or prior to May 1 of each year, commencing May 1, 2010, the authority shall certify to the state lottery director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the Education, Arts, Sciences and Tourism Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

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

(b) The authority shall expend sixty percent of the bond proceeds, net of issuance costs, reserve funds and refunding costs, for certified capital improvement projects at state institutions of higher education. The Higher Education Policy Commission shall submit a proposed list of projects which will receive funds from the bond proceeds to the Governor on or before January 1, 2010. Thereafter, the Governor shall certify to the authority on or before February 1, 2010, a list of those capital improvement projects at state institutions of higher education which will receive funds from the proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(c) The authority shall expend the balance of the bond proceeds for certified projects at state parks, the capitol complex, other state facilities or tourism sites. The secretary of the department of administration, the director of the division of natural resources, the director of the West Virginia development office and a representative of the capitol building commission, other than the secretary of the department of administration, who shall be selected by the capitol building commission shall submit a proposed list of projects which will receive funds from the bond proceeds to the Governor on or before January 1, 2010. Thereafter, the Governor shall certify to the authority on or before February 1, 2010, a list of those capital improvement projects at state parks, the state capitol complex, other state facilities or tourism sites which will receive funds from the proceeds of bonds issued pursuant to this section. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

Acts 2009, 1st Ex. Sess., c. 14, eff. June 2, 2009.

ARTICLE 15A

WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL

Section		Section	
31–15A–3.	West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council.	31–15A–11.	Reservation of funds for projects and infrastructure projects.
		31–15A–16.	Dedication of severance tax proceeds.
31–15A–6.	Powers, duties and responsibilities of the council generally; comprehensive assessment.	31–15A–17a.	Infrastructure revenue bonds payable from A. James Manchin Fund.

§ 31-15A-3. West Virginia Infrastructure and Jobs Development Council continued; members of council; staff of council

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

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

(1) The Governor or designee;

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

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

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

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

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

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

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

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

(d) The Commissioner of the Division of Highways, the Executive Director of the state rail authority, two members of the West Virginia Senate, two members of the West Virginia House of Delegates, the Chancellor of the Higher Education Policy commission and the Chancellor of the West Virginia Council for Community and Technical College Education serve as advisory members of the council. The advisory members shall be ex officio, nonvoting members of the Council.

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

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

(g) The Governor or designee shall serve as chairman and the council shall annually appoint a vice chairperson and shall appoint a secretary, who need not be a member of the Council and who shall keep records of its proceedings. Seven members of the Council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the Council. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

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

(i) The Council meets at least monthly to review projects and infrastructure projects requesting funding assistance and otherwise to conduct its business and may meet more frequently if necessary. Notwithstanding any other provision of this article to the contrary, the Economic Development Authority is not subject to council review with regard to any action taken pursuant to the authority established in article fifteen, chapter thirty-one of this code. The Governor's civil contingent fund is not subject to council review with regard to projects or infrastructure projects funded through the Governor's Civil Contingent Fund.

(j) The Water Development Authority shall provide office space for the council and each governmental agency represented on the council shall provide staff support for the council in the manner determined appropriate by the council.

(k) The Council shall invite to each meeting one or more representatives of the United States Department of Agriculture, Rural Economic Community Development, the United States Economic Development Agency and the United States Army Corps of Engineers or any successors thereto. The council shall invite other appropriate parties as is necessary to effectuate the purposes of this article.

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 2005, 1st Ex. Sess., c. 3, eff. Jan. 29, 2005; Acts 2009, c. 221, eff. April 10, 2009.

Historical and Statutory Notes

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

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

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

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

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

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

"(c) The governor or designee shall serve as chairman and the council shall annually appoint a

vice chairperson and shall appoint a secretary, who need not be a member of the council and who shall keep records of its proceedings. Six members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council. A vacancy in the membership of the council does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the council.

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

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

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

"(g) The council shall invite to each meeting one or more representatives of the United States department of agriculture, rural economic community development, the United States economic development agency and the United States army corps of engineers or any successors thereto. The council shall invite such other appropriate parties as is necessary to effectuate the purposes of this article."

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

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

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

(2) Periodically prepare a list of infrastructure projects or projects which cannot meet the established funding guidelines of the various state infrastructure agencies, other than the Housing Development Fund, but which are consistent with the mandates of this article and recommend to the Water Development Authority that it make a grant or loan to the project sponsors from the infrastructure fund to finance the cost of one or more such projects or infrastructure projects;

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

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

(b) The council shall develop a comprehensive statewide inventory of water supply systems and sewage treatment systems and an assessment of current and future needs. The assessment shall identify the areas of the state which do not have adequate public water or sewage systems and offer recommendations for the construction of new facilities or the extension or expansion of existing facilities to meet the identified needs. The council shall include in the assessment an identification of the obstacles, issues and problems which prevent or inhibit development of adequate infrastructure throughout the state, including financial, governmental, physical, or geographical factors and make recommendation as the council considers appropriate regarding the obstacles, issues or problems identified. This comprehensive inventory and assessment shall be updated at least once in every three-year period after the initial assessment and inventory is completed in 1996.

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

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

Historical and Statutory Notes

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

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

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

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

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

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

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

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

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

Eighty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for the cost of projects as defined in subsection (n), section two of this article. Twenty percent of the funds deposited in the West Virginia infrastructure fund shall be dedicated for the purpose of providing funding for costs of infrastructure projects as defined in subsection (*l*), section two of this article. Project sponsors of infrastructure projects shall follow the application process as established by this article: *Provided*, That notwithstanding any provision of this article to the contrary, all applications for any infrastructure project shall be submitted to the executive director of the West Virginia development office for review, recommendation and approval regarding infrastructure project funding.

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

Historical and Statutory Notes

Acts 2005, 1st Ex. Sess., c. 3, in the last sentence, substituted "executive director of the West Virginia development office" for "council for community and economic development, or its successor".

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

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

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter: *Provided*, That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia Infrastructure General Obligation Debt Service Fund created pursuant to section three, article fifteen-b of this chapter.

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) None of the collections from the tax imposed pursuant to section six, article thirteen-a, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a, chapter eleven and dedicated for purposes of medicaid and the Division of Forestry pursuant to section twenty-a of said article thirteen-a shall remain dedicated for the purposes set forth in said section twenty-a.

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

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

Acts 1994, 1st Ex. Sess., c. 26; Acts 1995, c. 130, eff. March 10, 1995; Acts 1998, c. 180, eff. 90 days after March 14, 1998; Acts 2008, c. 213, eff. June 7, 2008.

Historical and Statutory Notes

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

§ 31–15A–17a. Infrastructure revenue bonds payable from A. James Manchin Fund

Notwithstanding any other provision of this code to the contrary, the Water Development Authority may issue, in accordance with the provisions of section seventeen of this article, infrastructure revenue bonds payable from the A. James Manchin Fund created by section nine, article fifteen-a, chapter twenty-two of this code and such other sources as may be legally pledged for such purposes other than the West Virginia Infrastructure Revenue Debt Service Fund created by section seventeen of this article.

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

ARTICLE 15C

BROADBAND DEPLOYMENT

Section		Section	
31–15C–1.	Legislative findings and purpose.	31–15C–4.	Powers and duties of the council generally.
31–15C–2.	Definitions.	31–15C–5.	Creation of the Broadband Deployment Fund.
31–15C–3.	Broadband Deployment Council established; members of council; administrative support.		

ORDERS--Wood County Court, West Virginia

JANUARY Term FIFTEENTH Day JANUARY 19 58
THURSDAY, JANUARY 30th, 1958

IN RE: LUBECK DISTRICT - PUBLIC SERVICE DISTRICT WITHIN WOOD COUNTY, WEST VIRGINIA.

Parkersburg, West Virginia
Jan. 30, 1958

The County Court of Wood County, West Virginia, met in regular session pursuant to law and to the rules of said court at the County Court House, Parkersburg, West Virginia, at 10 o'clock A. M. The meeting was called to order and the roll being called there were present Harry C. Nicely, President, presiding, and the following named commissioners: Guy M. Kincheloe and Malcolm B. Louden.

Absent: NONE

This being the date fixed by prior action of the County Court for conducting the public hearing on the creation of the proposed Lubeck Public Service District, as contemplated and provided for in a resolution and order adopted by the County Court on 19th December, 1957, the president announced that all persons residing in or owning or having any interest in property in such proposed public service district desiring to be heard for or against the creation of said district would be heard and all such interested persons desiring to be heard were given full opportunity.

The County Court then further discussed the creation of said public service district, whereupon Malcolm B. Louden introduced and caused to be read a proposed resolution and order, entitled:

"A RESOLUTION AND ORDER creating Lubeck
Public Service District in Wood County, West Virginia."

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted. Guy M. Kincheloe seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: Harry C. Nicely
Guy M. Kincheloe
Malcolm B. Louden

Nay: NONE

Whereupon the President declared the motion duly carried and said resolution and order duly adopted. Malcolm B. Louden introduced and caused to be read a proposed resolution and order, entitled:

"A RESOLUTION AND ORDER appointing members to
the public service board of the Lubeck Public Service District."

and moved that all rules otherwise requiring deferred consideration or several readings be suspended and said proposed resolution and order be adopted. Guy M. Kincheloe seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: Harry C. Nicely
Guy M. Kincheloe
Malcolm B. Louden

Nay: NONE

Whereupon the President declared the motion duly carried and said resolution and order duly adopted.

On motion and vote the meeting adjourned.

a/ Harry C. Nicely
President

Attest:
L. C. White
Clerk

A RESOLUTION AND ORDER CREATING
LUBECK PUBLIC SERVICE DISTRICT IN
WOOD COUNTY, WEST VIRGINIA

WHEREAS, the County Court of Wood County, West Virginia, did heretofore by a resolution and order adopted December 19, 1957, fix a date for a public hearing on the creation of the proposed Lubeck Public Service District and in and by said resolution and order provide that all persons residing in or owning or having any interest in property in the proposed public service district might appear before the County Court at this meeting and have the opportunity to be heard for and against the creation of said district; and,

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

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

NOW, THEREFORE, Be It and It Is Hereby Resolved and Ordered by the County Court of Wood County, West Virginia, as follows:

Section 1. That a public service district within Wood County, West Virginia, is hereby created, and said district shall have the following boundaries:

Beginning at the Ohio River approximately one-half mile up stream from Blennerhassett Island at a point having a latitude of N. 39° 15' 58" and a longitude of W. 81° 35' 00", thence South 1.4 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35' 00", thence West 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58", thence S. 37° 00' 00" W. 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 53", thence West 1.80 miles to point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 40' 55", thence to the Ohio River N. 32° 00' 00" W. 0.75 miles to a point having a latitude of N. 39° 13' 16" and a longitude of W. 81° 41' 22, thence along and with the Ohio River approximately 8.85 miles to the beginning.

Containing generally the communities of Marrtown, Lubeck, Blennerhassett Heights and Washington together with contiguous areas. All within the magisterial district of Lubeck, Wood County, State of West Virginia, as shown upon a map prepared by J. H. Milan, Inc., Consulting Engineers, 1214 Myers Avenue, Dunbar, West Virginia, November 1957.

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

Section 3. That the County Court of Wood County, West Virginia, has determined that the territory within Wood County, West Virginia, having the hereinbe above described boundaries,

2

is so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying both water and sewage services within such territory by said public service district will be conducive to the preservation of public health, comfort and convenience of such area.

ADOPTED BY THE COUNTY COURT Jan. 30, 1958.

s/ Harry C. Nicely,
President

Attest:
L. C. White
Clerk

A RESOLUTION AND ORDER APPOINTING
MEMBERS TO THE PUBLIC SERVICE BOARD
OF THE LUBECK PUBLIC SERVICE DISTRICT.

WHEREAS, the County Court of Wood County, West Virginia, did heretofore by resolution and order adopted Jan. 30, 1958, create the Lubeck Public Service District; and,

WHEREAS, under the provisions of Article 13A of Chapter 16 of the West Virginia Code the powers of said public service district shall be vested in and exercised by a public service board; and,

WHEREAS, since there is no city, incorporated town or other municipal corporation included within said district, it is provided by said Article 13A of Chapter 16 of the West Virginia Code that this County Court shall appoint three members of said board, who shall be persons residing within the district:

NOW, THEREFORE, Be It and It Is Hereby Resolved and Ordered by the County Court of Wood County, West Virginia, as follows:

Section 1. That the County Court of Wood County, West Virginia, hereby finds and determined that David T. Correll, Paul F. Somerville and Stafford J. McQuillin, are persons residing within the Lubeck Public Service District, and the aforesaid persons are hereby appointed as members of the public service board of said district and their respective terms of office shall be as follows:

David T. Correll for a term of six years from the first day of the month in which this resolution and order is adopted;

Paul F. Somerville for a term of four years from the first day of the month in which this resolution and order is adopted; and,

Stafford J. McQuillin for a term of two years from the first day of the month in which this resolution and order is adopted.

Section 2. The aforesaid persons shall meet as soon as practicable, at the office of the Clerk of said County Court and shall qualify by taking an oath of office, and thereafter said appointees constituting the initial public service board of the Lubeck Public Service District shall meet and organize in compliance with the provisions of Article 13A of Chapter 16 of the West Virginia Code.

ADOPTED BY THE COUNTY COURT JAN. 30, 1958.

s/ Harry C. Nicely
President

Attest:
L. C. White
Clerk

STATE OF WEST VIRGINIA)
) ss
County of Wood)

I, L. C. White, hereby certify that I am the duly qualified and acting Clerk of the County Court of Wood County, West Virginia, and that the foregoing constitutes a true, complete and correct transcript of the proceedings of said County Court as had under date of Jan. 30, 1958, and resolutions and orders then adopted relating to the creation of Lubeck Public Service District, and appointment of members to the public service board of said district.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of said Court at Parkersburg, West Virginia, this 30 January, 1958.

s/ L. C. White
County Court Clerk

(SEAL)

And there appearing no further business to claim the attention of this Court, it is, hereby ordered that this Court do now adjourn to meet in regular session on Saturday, the 1st day of February, 1958, at 9:30 o'clock A. M.

Harry C. Nicely
President

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, H. K. Smith, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by law of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of Order Dated January 30, 1958 IN RE: Lubeck Public Service District

as the same appears of record in my said Office in Order Book 28, Page 149

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 24th day of April, 1986

H. K. SMITH
CLERK WOOD COUNTY COMMISSION
By: Martha J. DeVore
Deputy

Officials of Lubeck Public Service District were present at the meeting of the Commission and again discussed with the Commission the need for public water service in a substantial area of Wood County roughly described as the Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, collectively referred to as the additional area. The Commission, having been previously contacted by residents of the area and having made certain investigations into the need for safe, potable and dependable water in the additional area and having been advised that Lubeck Public Service District is commencing an expansion of its water facilities and can provide expanded water service, has determined that there is an urgent need for public water service in said additional area, that Lubeck Public Service District is able to provide that service, and that the district should be enlarged to include this additional area.

The Commission, on its own motion, does hereby propose that Lubeck Public Service District be enlarged to include the Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, more particularly described as follows:

> BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a

latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.80 miles to the place of beginning.

It is ordered that a public hearing to consider the enlargement of Lubeck Public Service District to include the aforesaid area be held in the Judicial Annex Building of Wood County in the City of Parkersburg, West Virginia, on the 7th day of July, 1988, at 7:00 o'clock P. M., that notice of said hearing be published in The Parkersburg News as a Class I legal advertisement not less than 10 days before the date of the hearing and that notices be posted in at least five conspicuous places in said additional area not less than 10 days before the date of the hearing.

Entered this 16th day of June, 1988.

Commissioner

Commissioner

Commissioner

7/11/88
51/72

JULY 11, 1988

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: THE COUNTY COMMISSION OF WOOD COUNTY APPROVED THE ENLARGEMENT OF THE LUBECK PUBLIC SERVICE DISTRICT.

ORDER

The County Commission of Wood County, on this date, approved the enlargement of the Lubeck Public Service District upon a motion made by Lewis E. Guinn, seconded by Steven A. Grimm and made unanimous by Holmes R. Shaver. This action is pursuant to the Public Hearing held on Thursday, July 7, 1988, at 7:00 P.M. after being duly advertised in accordance with Article 13-A, Chapter 16 of the West Virginia Code.

Attached to this Order is a Resolution and affidavits of notice and posting within the area to be annexed, and should be made a part thereof.

Approved:

COUNTY COMMISSION OF WOOD COUNTY

Holmes R. Shaver, President

Lewis E. Guinn, Commissioner

Steven A. Grimm, Commissioner

7/11/88
51/72

A RESOLUTION AND ORDER ENLARGING
LUBECK PUBLIC SERVICE DISTRICT IN WOOD COUNTY, WEST VIRGINIA

WHEREAS, the Wood County Commission did heretofore by order entered on June 16, 1988, fix the 7th day of July, 1988, as a date for a public hearing on the enlargement of Lubeck Public Service District, and notice of said hearing was published and posted as required by Article 13-A, Chapter 16 of the West Virginia Code, and in said notice it was provided that all persons residing in, or owning, or having any interest in property in the areas proposed to be included might appear at the time and place of said meeting and be heard for and against said enlargement, and

WHEREAS, the Wood County Commission proceeded to hold said public hearing on the 7th day of July, 1988, at 7:00 o'clock P. M., at which hearing in excess of 175 persons were present, and the Commission receiving neither written protest nor oral protest to said enlargement, and all of the persons present unanimously favoring said enlargement,

NOW THEREFORE BE IT RESOLVED AND ORDERED that the affidavit of The Parkersburg News of the publication of the notice of public hearing, together with the affidavit of James M. Cox as to the posting within the areas to be included within Lubeck Public Service District, be and the same are hereby filed.

BE IT FURTHER RESOLVED AND ORDERED that it is necessary, feasible and proper to enlarge Lubeck Public Service

District to include areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, and Woodyard Creek Road areas, located in Wood County, West Virginia, to provide public water service to those areas, which areas are collectively described as follows:

> BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.80 miles to the place of beginning.

IT IS FURTHER ORDERED that from and after the date of the entry of this Order said additional area shall be a part of Lubeck Public Service District.

The Wood County Commission does further find and ORDER that the enlargement, maintenance, operation, improvement and extension of public service properties by said Public Service

District will be conducive to the preservation of public health, comfort and convenience of such areas.

BE IT FURTHER ORDERED that within ten (10) days after the entry of this Order a certified copy thereof be filed for review and approval with the Public Service Commission of West Virginia as required by Article 13-A, Chapter 16, of the West Virginia Code.

Entered this 11th day of July, 1988.

Commissioner

Commissioner

Commissioner

STATE OF WEST VIRGINIA,

COUNTY OF WOOD, TO-WIT:

I, James M. Cox, Manager of Lubeck Public Service District, upon my oath say that on June 25TH, 1988, I caused to be posted copies of the attached notice in six conspicuous places throughout the area to be annexed, commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, located in Wood County, West Virginia, at the following locations:

1. ~0.8 Mile on Homewood Rd. From Lubeck - Lacey Brothers Property
2. ~0.25 Mile on Lost Pavement Rd. From Route 32 or Gihon Co.
3. ~0.6 Mile on Hope Hill Rd. From Route 32 or Gihon Co. - McHarry Property.
4. ~Intersection of Routes 21/12 & 13/10.
5. At The Old Williams School on Route 38.
6. ~Intersection of Routes 13 & 9/8.

Dated this 25TH day of June, 1988.

James M. Cox

Taken, subscribed and sworn to before the undersigned authority this 26th day of June, 1988.

My commission expires: 10-8-91

Notary Public.

NOTICE OF PUBLIC HEARING TO ENLARGE LUBECK PUBLIC SERVICE DISTRICT TO INCLUDE THE LOST PAVEMENT, MISSOURI RUN, HOPE HILL, HOMEWOOD ROAD AND WOODYARD CREEK ROAD AREAS

Notice is given that the Wood County Commission has fixed the 7th day of July, 1988, at 7:00 o'clock P. M. at the Judicial Annex Building of Wood County in the City of Parkersburg, West Virginia, as the time and place for a public hearing to consider the enlargement of Lubeck Public Service District to include the areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, located in Wood County, West Virginia, to provide public water service to these areas, which areas are collectively described as follow:

BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 33" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.88 miles to the place of beginning.

All persons residing in, or owning, or [illegible] any interest in property in said areas [illegible] at the aforesaid time and place [illegible] and against said enlargement.

Jamie Six, Clerk
Wood County Commission

June 24 N

MARCIA MOORE

being first duly sworn, says that the

notice of public hearing----7th day of

JULY

hereto attached was printed in the Parkersburg News

a daily newspaper published in the City of Parkersburg, Wood County, West Virginia, and posted at the front door of the Court House for one successive weeks, the first publication ~~and posting~~ thereon being on the 24th day of JUNE 19 88, and subsequent publication on the ..... day of ..... 19....., the ..... day of ..... 19....., the ..... day of ..... 19....., the ..... day of ..... 19....., and the ..... day of ..... 19.....

Printer's Fee $27.13

434 words @.0625

Marcia Moore

Subscribed and sworn to before me this 24th day of JUNE 19 88.

Melden A. Lawson
Notary Public in Wood County, West Virginia

My commission expires 7-21-92

...ersburg Printing Co. - 5/71

NOTICE OF PUBLIC HEARING
TO ENLARGE LUBECK PUBLIC SERVICE DISTRICT
TO INCLUDE THE LOST PAVEMENT, MISSOURI RUN,
HOPE HILL, HOMEWOOD ROAD AND WOODYARD CREEK ROAD AREAS

Notice is given that the Wood County Commission has fixed the 7th day of July, 1988, at 7:00 o'clock P. M. at the Judicial Annex Building of Wood County in the City of Parkersburg, West Virginia, as the time and place for a public hearing to consider the enlargement of Lubeck Public Service District to include the areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, Woodyard Creek Road areas, located in Wood County, West Virginia, to provide public water service to those areas, which areas are collectively described as follows:

> BEGINNING at a point in the present southerly boundary of Lubeck Public Service District having a latitude of N. 39° 12' 43" and having a longitude of W. 81° 40' 55"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 39' 07"; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. 39° 11' 13" and having a longitude of W. 81° 33' 07"; thence in a northerly direction approximately 2.5 miles to a point having a latitude of N. 39° 13' 25" and having a longitude of W. 81° 33' 07"; thence in a northwesterly direction approximately 2.15 miles to a point in the present boundary of Lubeck Public Service District having a latitude of N. 39° 14' 24" and a longitude of W. 81° 35'; thence with the present boundary line of Lubeck Public Service District the following three courses: W. approximately 1.73 miles to a point having a latitude of N. 39° 14' 24" and a longitude of W. 81° 36' 58"; thence southwest approximately 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 58"; thence W. approximately 1.80 miles to the place of beginning.

All persons residing in, or owning, or having any interest in property in said areas may appear at the aforesaid time and place and be heard for and against said enlargement.

Jamie Six, Clerk
Wood County Commission

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of

IN RE: THE COUNTY COMMISSION OF WOOD COUNTY APPROVED THE ENLARGEMENT OF THE LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in COURT ORDER BOOK NO. 51, Page 72

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 6th day of February, 1990

JAMIE SIX

CLERK WOOD COUNTY COMMISSION

By: Laurie Eaton

Deputy

ORIGINAL

ENTERED
08 88-G Page

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

FINAL
10-25-88

Entered: October 5, 1988

CASE NO. 88-404-W-PC

WOOD COUNTY COMMISSION,
Parkersburg, Wood County.
Petition for permission to enlarge boundaries of Lubeck Public Service District.

RECOMMENDED DECISION

On June 16, 1988, the Wood County Commission adopted an order to enlarge the boundaries of Lubeck Public Service District to include areas commonly known as Lost Pavement, Missouri Run, Hope Hill, Homewood Road, and Woodyard Creek Road, all of which are located in Wood County. The purpose of this expansion of the Lubeck Public Service District boundaries was to ultimately provide water service to those areas as a part of a future project to be undertaken by that District.

In accordance with the provisions of West Virginia Code §16-13A-2, the order of the Wood County Commission was submitted for the Commission's consideration and approval. In accordance with the provisions of that statute, the Public Service Commission is required to conduct a public hearing in the affected County prior to entering a decision which either approves, modifies or disapproves the proposed Public Service District boundary modifications.

By Order entered on August 3, 1988, hearings in these matters were scheduled to commence in the Judge's Chambers, City Building, 2nd and Avery Streets, Parkersburg, West Virginia, on Tuesday, September 13, 1988, beginning at 10:00 a.m., EDST. The purpose of this hearing was to receive public testimony and to receive additional evidence to determine if the order of the Wood County Commission is in the public interest.

The August 3, 1988 Order required the Wood County Commission to publish a copy of the Commission's Order once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Wood County. On August 30, 1988, the Wood County Commission submitted an affidavit of publication verifying that the required public notice was provided by publication on August 19, 1988 in The Parkersburg News, a newspaper published and of general circulation in Wood County.

The hearing commenced as scheduled. The Wood County Commission and the Lubeck Public Service District were represented by Lawrence M. Ronning, and the Commission's Staff was represented by Ann Rodak of the Legal Division.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

DISCUSSION

The hearing was well attended by members of the public. The 53 persons in attendance signed a sheet which noted their attendance and indicated whether they were in protest or in support of the proposed boundary expansion. All persons in attendance indicated that they supported the project, except two persons who did not indicate whether they either supported or protested the described boundary expansion.

The Lubeck Public Service District and the Wood County Commission first made statements on the record describing the rationale behind the proposed boundary expansion. Staff then went on record to voice its support for the proposed boundary expansion. Thereafter, members of the public were provided the opportunity to appear and make statements on the record either in support of or against the proposed boundary expansion.

James Cox, the District Manager for Lubeck Public Service District, generally described the territories covered by the proposed boundary expansion and the District's plans for providing water service to those territories. As shown on the map identified as Exhibit 1, the territories in question lie beyond the municipal boundaries of the City of Parkersburg, and they are not currently within the boundaries of any public service district. Both Lubeck Public Service District and Mineral Wells Public Service District have facilities and territories which are directly adjacent to the territories included in the proposed expansion. (Tr., pp. 10-12; Lubeck Exhibit No. 1).

The residents in these territories do not currently have access to a public water supply, and many must transport bottled water or take other measures to meet their water supply needs. These customers have repeatedly approached the City of Parkersburg, Mineral Wells Public Service District and Lubeck Public Service District in an effort to obtain public water to these territories, but to date they have been unable to secure public water from any of the adjacent public utilities. (Tr., pp. 29-35).

As described by Mr. Cox, Lubeck Public Service District is currently unable to extend its facilities by ordinary extensions to serve these territories, and it must upgrade its facilities and add a new treatment plant to be able to serve these customers. These residents have petitioned Lubeck Public Service District for water service, and Lubeck is in the process of performing engineering feasibility studies to determine how water service can best be extended to these territories. (Tr., pp. 6-10).

The Public Service Commission previously approved an engineering contract for the performance of feasibility studies to evaluate the growth and expansion of the Lubeck Public Service District to serve these territories. (Case No. 88-042-W-PC).

Based upon its initial evaluation, Lubeck Public Service District believes that it can extend service throughout these territories as part of a project to upgrade its system and add a new treatment plant to serve its existing facilities as well as the new territories. The District hopes to secure available grant money and low interest loans to finance

the construction of this contemplated project. It is ultimately hoped that service can be extended to these customers to provide quality service at reasonable rates. If everything goes according to schedule, Lubeck Public Service District hopes to submit a proposed project for the Commission's review and consideration as early as 1989. The Mid-Ohio Valley Regional Council and the Wood County Commission have evaluated the ability of both Lubeck Public Service District and Mineral Wells Public Service District to serve these territories, and they have concluded that the plan proposed by Lubeck Public Service District provides the most reasonable alternative for providing much needed water service to these territories. (Tr., pp. 11, 14-15).

Robert L. Skiles, Chief Utilities Manager for the Public Service District Division of the Public Service Commission, testified that Staff had reviewed the proposed boundary expansion and is in support of the enlargement of Lubeck Public Service District's boundaries. During its initial review of the filing, Staff was of the opinion that the proposed boundary expansion should be approved unless Mineral Wells Public Service District provided evidence that it could provide water service to the proposed area of expansion in a more feasible manner than the Lubeck Public Service District. Since Mineral Wells Public Service District had neither submitted a plan for Staff consideration nor appeared at the hearing in opposition to the expansion, Staff believed that it was best for the District to proceed with the expansion of its boundaries and the development of an acceptable project to serve the territory. The Staff believed that the District was taking reasonable measures to evaluate available alternatives for serving the territory, and the approval of the proposed boundary expansion was seen as the first step in providing safe, adequate and reasonably priced water service to these territories. (Tr., pp. 19-22).

Public statements in support of the proposed boundary expansion and the future development of the public water system in these territories were provided by Dale Sole, James E. Smith, David Van Kirk and Betty Bower. All of these customers related the residents' longstanding desire to obtain public water service to meet the needs of the territory, and the approval of the boundary expansion was seen as the first significant step towards securing adequate water service. The residents have been trying to obtain appropriate water service to this territory for over 15 years, and the residents had wide spread support for the development of water service to these territories by Lubeck Public Service District. (Tr., pp. 28-35).

Upon review of all of the above, the Administrative Law Judge is of the opinion that the July 7, 1988 Order of the Wood County Commission to enlarge the boundaries of Lubeck Public Service District is reasonable and appropriate and is consistent with the public interest. Therefore, the proposed boundary expansion shall be approved by this order. The proposed enlargement of the Lubeck Public Service District boundaries to include the territories of Lost Pavement, Missouri Run, Hope Hill, Homewood Road and Woodyard Creek Road appears to represent the initial step in securing a much needed public water supply to serve these territories.

While the residents of these areas are eager to get water service in this territory as soon as possible, the Administrative Law Judge notes that the Commission's approval of the described enlargement to Lubeck Public Service District's boundaries shall in no way constitute prior approval of any proposed project to serve these territories which is subsequently submitted by Lubeck Public Service District. When submitted, such a project would be reviewed on its own merits to insure that the described service and facilities were properly designed, the project is supported by adequate financing, rates and charges, and the project is consistent with the public interest.

Even though a specific project has yet to be submitted and reviewed, it is reasonable to grant the proposed boundary expansion at this time so that an acceptable project can be developed by Lubeck Public Service District as soon as possible to satisfy the public needs throughout these territories. If, for some reason, the contemplated project does not proceed to construction in a timely manner, and the approved expansion of Lubeck Public Service District's boundaries proves to be a hindrance to the development of alternate public water supplies to serve these territories, the Wood County Commission and the Public Service Commission would have to take appropriate steps to subsequently modify Lubeck Public Service District's boundaries as necessary to promote the development of alternate water projects.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Wood County Commission's order proposes to expand the boundaries of Lubeck Public Service District to include certain unincorporated territories adjacent to Lubeck Public Service District which currently have no source of water supply. (July 3, 1988 Application and attachments).

2. Lubeck Public Service District is in the process of evaluating a proposed project to include the expansion of service into these designated territories in conjunction with a project to expand the District's capacity and upgrade its facilities to meet the needs of existing and future customers. Lubeck Public Service District intends to seek available funding and file for a certificate of convenience and necessity from the Commission for such a project as soon as possible, hopefully as early as 1989. (Tr., pp. 11, 14-15).

3. Based upon preliminary estimates, it is anticipated that Lubeck Public Service District can provide quality water service at reasonable rates to these areas, and an appropriate project can be submitted for the Commission's review and approval. (Tr., pp. 11, 14-15).

4. Mineral Wells Public Service District, which is another water utility which serves adjacent territories, has not submitted an alternate proposal for serving the territory in question, and it did not appear in opposition to the proposed expansion of boundaries by Lubeck Public Service District. (Tr., pp. 10-12).

5. The general public in the affected territories supports the expansion of Lubeck Public Service District's boundaries. (Tr., pp. 28-35).

6. The Staff of the Public Service Commission supported the proposed boundary expansion, and believed the District was taking reasonable measures to evaluate available alternatives for serving the territory. (Tr., pp. 19-22).

CONCLUSION OF LAW

Upon consideration of all of the above, the Administrative Law Judge is of the opinion that the July 7, 1988 Order of the Wood County Commission to enlarge the boundaries of Lubeck Public Service District is reasonable and appropriate and consistent with the public interest. This approval shall in no manner constitute any prior approval for any project which is subsequently designed to serve these territories, and such a project, when developed, must be submitted to the Commission and reviewed on its own merits.

ORDER

IT IS, THEREFORE, ORDERED that the July 7, 1988 Order of the Wood County Commission to enlarge the boundaries of Lubeck Public Service District to include the territories of Lost Pavement, Missouri Run, Hope Hill, Homewood Road, and Woodyard Creek Road, is hereby approved. Any project which is subsequently developed to serve this territory shall be submitted to the Commission for review and approval on its own merits.

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.

Robert F. Williams

Robert F. Williams
Administrative Law Judge

RFW:jas

ORDERS-Wood County Commission, West Virginia

MONDAY, MARCH 17, 1997
JANUARY Term, TWENTY-SIXTH Day MARCH 19 97

IN RE: ENLARGEMENT AND RE-ADJUSTMENT OF THE BOUNDARIES OF LUBECK PUBLIC SERVICE DISTRICT.

O R D E R

This 17th day of March, 1997, came Lubeck Public Service District and filed with the Clerk of the County Commission of Wood County, West Virginia, its Petition to enlarge and re-adjust the boundaries of said District; and the said Clerk presented such Petition to said County Commission at its regular meeting on this date, which Petition is ordered filed.

The County Commission, having considered the Petition and the testimony of witnesses in support thereof, finds that the facts contained in the Petition are true and that it is necessary, feasible and proper to enlarge the District to include the additional area of 53.9 square miles and to exclude 0.63 square mile to be included in the Mineral Wells District Territory; and the County Commission proposes inclusion of 53.9 square miles and exclusion of 0.63 square miles and does fix the 10th day of April, 1997, at 10:00 o'clock, A. M., at the office of the Wood County Commission in the Courthouse at Third and Market Streets, Parkersburg, West Virginia, as the time and place for a hearing on said Petition and proposal. Notice shall be published and posted as required by law.

(SEE PHOTOSTAT BOOK 44N, PAGE 77, FOR COPY OF PETITION, EXHIBIT A AND MAP IN ITS ENTIRETY)

ENTER:
COUNTY COMMISSION OF WOOD COUNTY
BY: s/ Holmes R. Shaver
Its: President

There appearing no further business to claim the attention of this Commission, it is hereby ordered that this Commission, do now adjourn to meet in Regular Session, Thursday, March 20, 1997, at 9:00 o'clock A. M. and meeting in Special Session, Wednesday, March 19, 1997, at 9:00 o'clock A. M., in regard to the preparation of the Budgetfor Fincal Year 1997/1998.

President

WEDNESDAY, MARCH 19, 1997
JANUARY TERM TWENTY-SEVENTH DAY MARCH 1997

At a Special Session of the County Commission, continued and held for the County of Wood, at the Courthouse thereof, Wednesday, March 19, 1997, Present, Holmes R. Shaver, President of said Commission, and David A. Couch and Robert K. Tebay, Commissioners.

STATE OF WEST VIRGINIA,
COUNTY OF WOOD, TO-WIT:

I, JAMIE SIX, Clerk of the County Commission in and for the County of Wood and State of West Virginia, having a Seal, and the Officer in whose custody the files, books and records of said Office are required by laws of said State to be kept, do hereby certify that the attached and foregoing writing is a full, true and complete transcript and copy of IN RE: ENLARGEMENT AND RE-ADJUSTMENT OF THE BOUNDARIES OF LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in COURT ORDER BOOK 60, Page 80

IN WITNESS WHEREOF, I have hereunto set my hand and the Seal of said Office, at the City of Parkersburg, County of Wood and State of West Virginia, this the 20th day of MARCH, 19 97

JAMIE SIX

CLERK WOOD COUNTY COMMISSION

By: Brenda Lambert

Deputy

✓ IN RE: A RESOLUTION AND ORDER ENLARGING AND RE-ADJUSTING THE BOUNDARIES OF LUBECK PUBLIC SERVICE DISTRICT IN WOOD COUNTY, WEST VIRGINIA

WHEREAS, the Wood County Commission did heretofore by order entered on March 17, 1997, fix the 10th day of April, 1997, as a date for a public hearing on the enlargement and re-adjustment of the boundaries of Lubeck Public Service District, and notice of said hearing was published and posted as required by Article 13-A, Chapter 16 of the West Virginia Code, and in said notice it was provided that the meeting is open to the public and

WHEREAS, the Wood County Commission proceeded to hold said public hearing on the 10th day of April, 1997, at 10:00 o'clock A.M., at which hearing the Commission receiving neither written protest nor oral protest to said enlargement or boundary re-adjustment, and all persons present favoring said enlargement and re-adjustment,

NOW THEREFORE BE IT RESOLVED AND ORDERED that the affidavits of The Parkersburg News and Parkersburg Sentinel of the publication of the notice of public hearing, together with the affidavits of John Kirk as to the posting within the area to be included within Lubeck Public Service District and the area to be excluded, be and the same are hereby filed.

BE IT FUTHER RESOLVED AND ORDERED that it will be conducive to the preservation of public health, comfort and convenience of the area to be included, that Lubeck Public Service District can adequately serve said area, and that said enlargement is feasible and proper to provide services to the following described area:

BEGINNING at the Ohio River near the head of Newberry Island at a point having a Latitude of N. 39° 13' 16" and a Longitude of W. 81° 41' 22"; thence along the existing southerly boundary of the Lubeck Public Service District, S. 32° 28' E. 3,958 feet to a point having a Latitude of N. 39° 12' 43" and a Longitude of W. 81° 39' 07"; thence east 22,583 feet to a point in the westerly line of the Mineral Wells Public SErvice District having a Latitude of N. 39° 11' 13" and a Longitude of W. 81° 34' 20"; thence with the boundary of the Mineral Wells PUblic SErvice District, S.36° 44' W. 53,680 feet to a point in the Wood/Jackson County line having a Latitude of N. 39° 04' 08" and a Longitude of W. 81° 41' 08"; thence with the said County line, N. 61° 01' W. 19,016 feet to a point at the confluence of Pond Creek and the Ohio River having a Latitude of N. 39° 05' 39" and a Longitude of W. 81° 44' 39"; thence with the meanders of the Ohio River approximately 10.8 miles to the place of beginning; containing 53.90 square miles (34,500 acres).

IT IS FURTHER RESOLVED AND ORDERED that Lubeck Public SErvice District cannotadequately serve the following area, that it can be adequately served by Mineral Wells Public SErvice District, and that said area be excluded from Lubeck Public Service District's service area, which area to be excluded is described as follows;

BEGINNING at a point in the easterly boundary the Lubeck Public Service District having a Latitude of N. 39° 12' 21" and Longitude of W. 81° 33'15"; thence along the existing boundary of the Lubeck Public Service District, W. 6,880 feet to a point having a Latitude of N. 39° 11' 13" and a Longitude of W. 81°33' 15"; thence W. 5,134 feet to a point having a Latitude of N. 39° 11' 13" and a Longitude of West 81° 34' 20"; thence N. 36° 44' E. 8,585 feet to the place of beginning, containing 0.63 square miles (405.44 miles).

IT IS FURTHER ORDERED that from and after the date of the entry of this Order said additional area of 32.9 square miles (34,500 acres) shall be a part of Lubeck Public Service District, and that the 0.63 square mile (405.44 acres) shall be excluded from Lubeck Public Service District's service area.

BE IT FURTHER ORDERED that within ten (10) days after the entry of this Order a certified copy thereof be filed for review and approval with the Public SErvice Commission of WEst Virginia as required by ARticle 13-A, Chapter 16, of the WEst Virginia Code.

ENTERED this 10th day of April, 1997.

s/ Holmes R. Shaver
Holmes R. Shaver, Commissioner President
s/ Robert K. Tebay
Robert K. Tebay, Commissioner
DAvid A. Couch, Commissioner, Absent

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ORIGINAL

ENTERED
97P Page

FINAL
9-22-97

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: September 2, 1997

CASE NO. 97-0297-PSWD-PC

WOOD COUNTY COMMISSION
Petition for consent and approval
for enlargement of the boundaries of
the Mineral Wells Public Service District.

CASE NO. 97-0483-PSWD-PC

WOOD COUNTY COMMISSION
Petition for consent and approval to
enlarge and readjust the boundaries
of Lubeck Public Service District.

RECOMMENDED DECISION

Case No. 97-0297-PSWD-PC

On March 19, 1997, the Wood County Commission filed a petition seeking Commission approval for the enlargement of the boundaries of the Mineral Wells Public Service District. Such enlargement would incorporate areas in Steele, Slate and Tygart Magisterial Districts of Wood County.

Case No. 97-0483-PSWD-PC

On April 25, 1997, the Wood County Commission filed a petition seeking Commission approval to enlarge and readjust the boundaries of the Lubeck Public Service District.

By Order dated June 6, 1997, Case Nos. 97-0483-PSWD-PC and 97-0297-PSWD-PC were consolidated and referred to the Division of Administrative Law Judges for a decision to be rendered on or before October 15, 1997.

In Final Joint Memoranda filed in these cases on May 22 and June 3, 1997, Staff Attorney J. Joseph Watkins, Esquire, indicated that, in both cases, Staff recommended approval of the Wood County Commission's petitions and that the matters be set for hearing as required by West Virginia Code §16-13A-2.

By Order dated July 16, 1997, these matters were set for hearing to be held in the Court Room, Second Floor, City-County Complex, Parkersburg, West Virginia, on August 13, 1997. Said order also required that the Wood County Commission give notice of the date, time and place of the hearing by publishing a Notice of Hearing once in a newspaper, duly qualified by the

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Secretary of State, published and of general circulation in Wood County. The hearing was held as scheduled. The Wood County Commission appeared by its counsel Ellen Madeglio, Esquire. The Lubeck Public Service District appeared by its counsel Lawrence Ronning, Esquire. Commission Staff was represented by Staff Attorney J. Joseph Watkins.

No one appeared at the hearing in protest after proper publication had been made, as evidenced by the affidavit of publication dated August 4, 1997, which was filed with the Commission on August 11, 1997.

FINDINGS OF FACT

1. In Case No. 97-0297-PSWD-PC, on March 19, 1997, the Wood County Commission filed a petition seeking Commission approval for the enlargement of the boundaries of the Mineral Wells Public Service District. (See, petition).

2. In Case No. 97-0483-PSWD-PC, on April 25, 1997, the Wood County Commission filed a petition seeking Commission approval to enlarge and readjust the boundaries of Lubeck Public Service District. (See, petition).

3. In a Final Joint Staff Memorandum filed in these cases on May 22 and June 3, 1997, Staff Attorney J. Joseph Watkins advised that, in both cases, Staff recommended approval of the Wood County Commission's petitions. (See, Final Joint Staff Memorandum filed May 22, 1997 and June 3, 1997).

4. By Order dated July 16, 1997, these matters were set for hearing to be held in the Court Room, Second Floor, City-County Complex, Parkersburg, West Virginia, on August 13, 1997. Said Order also required that the Wood County Commission give notice of the hearing by publishing a Notice of Hearing once in a newspaper, duly qualified by the Secretary of State, published and of general circulation in Wood County. (See, Order dated July 16, 1997).

5. The Wood County Commission published the Notice of Hearing in Wood County in accordance with the Commission's requirements. (See, affidavit of publication filed August 11, 1997).

6. At the hearing held in these cases on August 13, 1997, no one appeared in protest to the orders of the Wood County Commission. (See, Tr., p. 5).

CONCLUSION OF LAW

The Administrative Law Judge is of the opinion and finds that, since the Wood County Commission gave proper notice of the hearing to be held in these cases, and no one appeared in protest to the petitions at the hearing held on August 13, 1997, the orders of the Wood County Commission in these cases can be approved as unprotested.

ORDER

IT IS, THEREFORE, ORDERED that the order of the Wood County Commission dated April 10, 1997, filed in Case Nos. 97-0297-PSWD-PC and 97-0483-PSWD-PC, adjusting the boundaries of Mineral Wells Public Service District and Lubeck Public Service District, be, and the same hereby is, approved.

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.

Robert W. Glass
Administrative Law Judge

RWG:pst

THE COUNTY COMMISSION OF WOOD COUNTY

PARKERSBURG, WEST VIRGINIA

To all to whom these presents shall come, GREETING:

Know ye, that the County Commission of Wood County of the Great State of West Virginia, reposing special confidence in the intelligence, integrity, and discretion of

John Sines

In pursuance of the authority vested in the County Commission of Wood County, do hereby appoint to

The Lubeck Public Service District

To hold said office and execute the duties thereof subject to the conditions prescribed by law.

December 28, 2009

Date

Commissioner
President

Commissioner

Commissioner

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12-28-09
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DECEMBER 28, 2009

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: THE COUNTY COMMISSION APPOINTED JOHN SINES TO THE LUBECK PUBLIC SERVICE DISTRICT BOARD.

ORDER

On this date, the County Commission of Wood County, upon a motion made by David Blair Couch, seconded by Wayne Dunn and made unanimous by Rick Modesitt, APPOINTED John Sines to the Lubeck Public Service District Board. Mr. Sines term will expire on December 31, 2015. Said appointment is pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities.

APPROVED:

THE COUNTY COMMISSION OF WOOD COUNTY

Rick Modesitt, President

David Blair Couch, Commissioner

Wayne Dunn, Commissioner

M/761

State of West Virginia
Certificate

This Is To Certify That On February 4—6, 2010

John H. Sines

Successfully Completed The PSD Board Members Mandatory Training Seminar Held At the Wingate Inn, South Charleston, WV

Amy R. Swann
West Virginia Public Service Commission

David L. Arnold
West Virginia Bureau of Public Health

Rosalie M Broderson
West Virginia Department of Environmental Protection

Approved for 17.0 CEH for all operator classifications- Water - CEH2005-109, Wastewater-

THE COUNTY COMMISSION OF WOOD COUNTY

PARKERSBURG, WEST VIRGINIA

To all to whom these presents shall come, GREETING:

Know ye, that the County Commission of Wood County of the Great State of West Virginia, reposing special confidence in the intelligence, integrity, and discretion of

Roger Dale Martin

In pursuance of the authority vested in the County Commission of Wood County, do hereby appoint to

The Lubeck Public Service District

To hold said office and execute the duties thereof subject to the conditions prescribed by law.

December 6, 2007

Date

Commissioner
President

Commissioner

Commissioner

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COPY

NOVEMBER 17, 2005

IN THE COUNTY COMMISSION OF WOOD COUNTY, WEST VIRGINIA

IN RE: THE COUNTY COMMISSION REAPPOINTED JERRY MARTIN TO THE LUBECK PUBLIC SERVICE DISTRICT BOARD.

ORDER

On this date, the County Commission of Wood County, upon a motion made by Rick Modesitt, seconded by Gary D. Deem and passed, reappointed Jerry Martin to the Lubeck Public Service District Board. Said appointment is due to the expiration of the term of Mr. Martin and is further pursuant to an Order appearing in Order Book 51, at Page 433 and bearing the date of April 1, 1991, dealing with the procedure policy for appointments to Boards and Authorities.

Mr. Martin's new term will expire December 31, 2011.

APPROVED:

THE COUNTY COMMISSION OF WOOD COUNTY

Gary D. Deem, President

Robert K. Tebay, Commissioner

Rick Modesitt, Commissioner

A/261

IN RE: ROGER D. MARTIN---OATH OF OFFICE—REAPPOINTED MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD.

STATE OF WEST VIRGINIA,

COUNTY OF WOOD, TO-WIT:

I, ROGER D. MARTIN, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully and impartially discharge the duties of the office of REAPPOINTED MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same, SO HELP ME GOD.

s/Roger D. Martin

Subscribed and sworn to, before the County Commission, of Wood County, West Virginia, this 10th day of December, 2007.

Jamie Six
Clerk Wood County Court
By: Brenda Blondin, Deputy

IN RE: JERRY R. MARTIN—OATH OF OFFICE—MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD.

STATE OF WEST VIRGINIA,

COUNTY OF WOOD, TO-WIT:

I, JERRY R. MARTIN do solemnly swear that I will support the Constitution of the United States, the Constitution of West Virginia, and that I will faithfully and impartially discharge the duties of the office of MEMBER LUBECK PUBLIC SERVICE DISTRICT BOARD, in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.

s/Jerry R. Martin

Subscribed and sworn to, before the County Commission of Wood County, West Virginia, this 7th day of July, 2005

Jamie Six,
Clerk Wood County Commission
By: Brenda Blondin, Deputy

STATE OF WEST VIRGINIA

COUNTY OF WOOD } TO-WIT:

I, John Sines, do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and that I will faithfully and impartially discharge the duties of the office of the Lubeck Public Service District Board in and for Wood County, West Virginia, to the best of my skill and judgment, during my continuance in the same; SO HELP ME GOD.

Subscribed and sworn to, before County Commission of Wood County, West Virginia, this 11th day of January, 2010.

Clerk of Wood County Commission

LUBECK PUBLIC SERVICE DISTRICT

ARTICLE I

NAME AND PLACE OF BUSINESS

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

Section 2. The principal office of the District will be located in Washington, West Virginia.

Section 3. The official seal of the District shall consist of 2 concentric circles between which circles shall be inscribed Lubeck Public Service District, and in the center "seal" as follows:

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

ARTICLE II

PURPOSE

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

ARTICLE III

MEMBERSHIP

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

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

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

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

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

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

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

ARTICLE IV

MEETINGS OF THE BOARD

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

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

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

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

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

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

News Media	Fax Number
The Parkersburg News and The Parkersburg Sentinel	(304) 485-5122
WXIL	(304) 424-6955
WNUS	(304) 295-4389
WTAP	(304) 422-3920

A notice shall be considered distributed to a news medium when it has been faxed to such news medium at the fax number listed above. In January of each year after the adoption of these Rules of Procedure, the Board shall review the above list and shall amend such list as needed, in the opinion of the Board, to reflect properly all the newspapers and other news media that customarily cover news of the area served by the Board. In addition, a copy of the agenda for each regularly scheduled meeting shall also be distributed to the news media by the Secretary not less than 72 hours before such regular meeting is to be held.

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

Rule No. 2. Notice of Special Meetings. Not less than 72 hours prior to the date set for any special meeting of the Board, the Board shall instruct the Secretary to, and the Secretary shall, post at the regular meeting place of the Board and at the Wood County Courthouse, where notices customarily are posted, a notice setting forth the date, time, place and purpose or purposes of such special meeting. Business at such special meeting shall be limited to the purpose or purposes specified in said notice.

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

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

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

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

Rule No. 5. Minutes. The Board shall provide for the preparation of written minutes of all of its meetings. Subject to the exceptions set forth in Chapter 6, Article 9A, Section 4 of the Code of West Virginia, 1931, as amended, minutes of all meetings except minutes of executive sessions, if any are taken, shall be available to the public within a reasonable time after the meeting and shall include, at least, the following information:

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

Rule No. 6. No Actions by Reference. Except as otherwise expressly provided by law, the Board may not deliberate, vote, or otherwise take official action upon any matter by reference to a letter, number or other designation or other secret device or method, which may render it difficult for persons attending a meeting to understand what is being deliberated,

voted or acted upon. However, this rule does not prohibit the Board from deliberating, voting or otherwise taking action by reference to an agenda, if copies of the agenda, sufficiently worded to enable the public to understand what is being deliberated, voted or acted upon, are available for public inspection at the meeting. The Board may not vote by secret or written ballot.

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

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

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

ARTICLE V

OFFICERS

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

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

serve until the next annual organizational meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

DUTIES OF OFFICERS

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

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

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

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

upon the Treasurer from time to time by the members of the Board. The Treasurer shall furnish bond in an amount to be fixed by the Board for the use and benefit of the District.

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

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

ARTICLE VII

AMENDMENTS TO RULES OF PROCEDURE

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

Adopted this 26th day of May, 2005.

Chairperson and Member

Member

Member

CERTIFICATION

Certified a true copy of the Rules of Procedure duly adopted by the Board of Lubeck Public Service District on May 26, 2005.

Dated this 17th day of June, 2005.

[SEAL]

Secretary

05/20/05
101090/00308

LUBECK PUBLIC SERVICE DISTRICT

January 14, 2010 7:00 PM

Jerry R. Martin, Chairman
Roger D. Martin, Treasurer
John H. Sines, Secretary

Attending: Jerry Martin, Roger Martin, John Sines, Jim Cox, Ed Robinson, Rick Roberts, Richard Hayhurst, Phil Postlewait, Judy Boston, Gary Brode, John Penczak, Craig Richards, Rocky McConnell

			Sewer	Water
NO. OF CUSTOMERS:	Section	1 Lake Washington Road	320	516
		2 Lubeck	341	447
		3 Riverhill - Blenn. Heights	280	395
		4 DuPont Road	294	315
		5 Larkmead Road	116	364
		6 LMH - Homewood Road	0	319
		7 Washington Bottom	299	398
		8 New England Ridge	181	332
		9 Lubeck South	205	334
		10 Larkmead Area - Marrtown	73	351
		11 Route 68 South - Hopewell	0	258
		12 Mitchell's	92	98
		13 Westover& Wakefield II	29	31
		Total Customers	2,230	4,158

TREASURER'S REPORT:

Revenue Fund WV Central	($7,628.61)
Operations & Maintenance Fund	$2,640.39
RUS Construction Account	$0.00
IJDC Construction Account	$0.00
United Bank Investment Fund	$0.00

Transfer From Revenue to Operation & Maintenance Checking Account	$40,000.00
Transfer From Revenue to O & M Checking Account	$0.00
Transfer From Revenue to O & M Checking Account	$0.00
Transfer From Revenue to United Bank Investment	$0.00
Transfer From Revenue to Operation & Maintenance Checking Account	$0.00

The following transfers were made to cover payroll & bills since the last Board meeting:

Transfer From Revenue to Operation & Maintenance Checking	$18,300.00
Transfer From Revenue to WesBanco Tax Account	$5,122.32
Transfer From Revenue to Operation & Maintenance Checking	$17,600.00
Transfer From Revenue to WesBanco Tax Account	$5,530.45
Transfer From Revenue to Operation & Maintenance Checking	$0.00

FIRST ORDER OF BUSINESS:

A) Prayer by Jerry Martin.

B) Welcoming of our newest Board member John Sines.

C) Election of officers: Moved by Roger Martin, seconded by John Sines that the District Chairman be Jerry Martin. Passed unanimously. Moved by John Sines, seconded by Roger Martin that the District Treasurer be Roger Martin. Passed unanimously. Moved by Roger Martin, seconded by John Sines that the District Secretary be John Sines. Passed unanimously.

D) Moved by Roger Martin, seconded by John Sines that the minutes of the Board meeting of December 10, 2009 be approved. Passed with John Sines abstaining since he was not at the meeting.

E) Public Meeting for the Lake Washington Club Sewer Project. See attached meeting minutes.

DISCUSSION OF DISTRICT HAPPENINGS:

It was reported what the field has been doing in the District:

A) Installed 1 water tap since the last Board meeting. There is 1 water tap to be installed. This gave us 50 water taps for 2009 and 0 water taps for 2010. The District has installed 0 sewer taps since the last Board meeting. There are 0 sewer taps to be installed. This gave us 8 sewer taps for 2009.

B) Repaired baffle at wastewater treatment plant.

C) Repaired 1 main line leak and 0 service line leaks.

D) Did Turn offs and turn ons.

E) Tested & changed meters and did meter inventory.

F) Did vehicle maintenance.

G) Removed snow from parking lot.

H) Ran sewer camera for customer complaint on Blennerhassett Heights.

I) Completed work orders, spotted lines, set meters.

It was reported what Bill and Rod have been working on:

December Water Pumped to System:	23,194,400 Gallons
Homewood Booster Station:	1,447,536 Gallons
New England Booster Station:	1,697,169 Gallons
High Water Usage and Day:	987,300 on 12/27
Low Water Usage and Day:	539,600 on 12/26

GENERAL BUSINESS:

A) Moved by Roger Martin, seconded by John Sines that all bills be approved as reviewed by management and the Board, in addition to all fund transfers as presented. Passed unanimously.

B) Wadesville Water Project – The District has received our notification of funding for this project. We now need to approve some various items to keep the project moving forward.

1) Moved by Roger Martin, seconded by John Sines that the District ratify the signing of the Request for Obligation of Funds that was completed on December 21, 2009. Passed unanimously.

2) Moved by Roger Martin, seconded by John Sines that the District approve the following Rural Utilities Services agreements: Loan Resolution – RUS Bulletin 1780-27, Water Grant Agreement – RUS Bulletin 1780-12, Letter of Intent to Meet Conditions – RD 1942-46, and the Rural Development certification of compliance with Federal, State, and Local requirements. Passed unanimously.

3) Moved by Roger Martin, seconded by John Sines that the District file the appropriate paper work with the Public Service Commission for the Wadesville Water Project. Passed unanimously.

4) Moved by Roger Martin, seconded by John Sines that the District will accept payment of $100 for a water tap fee for the Wadesville Water Project up to the date of bid opening. After this date the tap fee will be $500 as per our Tariff. Passed unanimously.

5) Moved by Roger Martin, seconded by John Sines that the District open an account for the Wadesville Water Project at West Virginia Central Credit Union to deposit the $100 water tap fees into and later use as our construction account. Passed unanimously.

6) Please note that there will be a public meeting held at the next Board meeting for the Wadesville Water Project which is an RD requirement.

C) Corp of Engineers work at the well field continues. They just completed clearing and began the stone installation today.

D) Moved by Roger Martin, seconded by John Sines that the District sign new signature cards for the District various checking and saving accounts. Passed unanimously.

E) Moved by Roger Martin, seconded by John Sines that the District accept the November 2009 financial statements as prepared by Philip R. Postlewait, CPA. Passed unanimously.

F) Moved by John Sines, seconded by Roger Martin that the meeting be adjourned. Passed unanimously.

APPROVED ATTESTED

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 13th day of November 2009.

CASE NO. 08-2016-PSWD-42A

LUBECK PUBLIC SERVICE DISTRICT,
a public utility, Washington, Wood County.
Rule 42A application to increase water and sewer rates and charges.

COMMISSION ORDER

The Commission declines to adopt the Recommended Decision with regard to rates and issues an Order approving the water and sewer rate increase originally requested by the District.

BACKGROUND

On November 24, 2008, Lubeck Public Service District ("District") filed a *Tariff Rule* 42A application requesting an increase in its annual revenue for providing water service by approximately $176,051, or 11%, and requesting an increase in its annual revenues for providing sewer service by approximately $117,033, or 11%. *See,* November 24, 2008 application.

On February 24, 2009, William T. Argabite, a customer of the District, filed a complaint against the District that was treated as a protest. Numerous other letters of protest were filed. On March 23, 2009, another customer, John P. Penczak, filed a petition to intervene.

By March 27, 2009 Order, the Administrative Law Judge Division ("ALJ") granted intervenor status to Mr. Argabite and Mr. Penczak.

On April 15, 2009, Staff filed a Final Joint Staff Memorandum, recommending an increase of approximately 12% in water rates and 6% in sewer rates. The Staff indicated that its recommended 12% water rate increase would provide sufficient cash to pay water operation and maintenance expenses, taxes and debt service and result in a cash surplus available for plant additions of approximately $111,000. Staff further indicated that the District should consider using up to $25,000 per year from existing renewal and replacement cash reserves to fund additional plant additions. The Staff recommendation regarding the 6%

sewer rate increase indicated that the recommended increase would allow the District to meet its ongoing cash requirements and provide approximately $55,000 in cash surplus available for plant additions. Staff also indicated that up to $20,000 per year of additional cash was available to the District from existing renewal and replacement cash reserves.

On May 26, 2009, the District filed a letter requesting authorization from the West Virginia Infrastructure and Jobs Development Council ("WVIJDC") to convert $2,136,720 of a 2005 BAN to permanent financing.

The WVIJDC approved the District request in a letter on June 4, 2009.

On June 9, 2009, Staff filed a Further Final Memorandum ("FFM") with recommendations that varied significantly from its Initial Memo. In this revised set of recommendations, Staff recommended a water rate increase of 9.5% and a sewer increase of 13.5%. For the District's water operations, Staff indicated that the District could now finance $600,000 for an extensive tank maintenance project and still have cash surplus of approximately $117,000. Staff again indicated that the District should consider using up to $25,000 per year from existing renewal and replacement cash reserves to fund additional plant additions. With regard to the sewer operations, in the June 9, 2009 FFM Staff indicated that its new sewer rate recommendation would provide debt service to convert approximately $2,100,000 of an existing Bond Anticipation Note (BAN) to permanent financing, provide sufficient funds to finance a new high-pressure line cleaning machine, and also provide a slightly higher cash surplus as compared to Staff's earlier recommendation.

On June 11, 2009, the ALJ held a hearing and issued a Recommended Decision on August 19, 2009. The ALJ held the Staff recommended rates to be sufficient to cover reasonable Operation and Maintenance ("O & M") expenses and provide the proper debt service coverage and cash surplus for reasonable plant additions.

The ALJ concluded that the Intervenors presented no evidence that reasonably rebutted the Staff-recommended sewer rate increase. Staff originally recommended a smaller rate increase but later considered the District's request for inclusion of a payment to convert approximately $2,100,000 of a BAN to permanent financing, increasing the principal loan payment by $73,680. The BAN was issued for a 1998 certificate project. *See* Case No.98-0009-W-CN. The ALJ held that it is reasonable to include the BAN payment in the instant rate case rather than require the District to incur further expenses in another filing to convert the BAN by the March 1, 2010 deadline. The District converted a portion of the BAN to permanent financing in 2005. *See* Case No. 05-0115-PSD-PC.

On September 3, 2009, Intervenor John Penczak filed exceptions to the Recommended Decision, arguing that:

(i) there is a pattern utilities using funds generated from a rate increase for purposes other than the stated purpose for increase. (TR., p. 113);

(ii) in test year 2008, the District made excessive loan principal payments. (TR., p. 126) In a telephone conversation, Staff indicated that the 2008 loan principal payments were far greater that the previous year, and deleting the excess payment would reduce the rate increase.

(iii) Staff is not aware of any other public service district paying100% of employee health insurance premiums. (TR., p. 159);

(iv) BAN conversion funding constitutes approximately 7.5% of the 13.5% sewer rate increase and therefore the conversion should be delayed until the March 1, 2010 due date, or in the alternative, for two years to allow for the addition of new customers to support the additional debt; and

(v) the Commission should reexamine the BAN and make the rate setting process simpler, less costly and more accountable.

On September 14, 2009, the District filed the following responses, corresponding to the Exceptions:

(i) Under the rate setting process for municipal public utilities (sic) established by the state legislature and implemented by the Commission, public service districts cannot accumulate funds to meet unforeseen emergencies, although depreciation and replacement reserves for capital expenditures are addressed in the process. Occasionally a utility must use funds planned for another use to meet emergencies. (TR., p. 60).

(ii) The Staff statement concerning excessive loan principal payments was not presented to the ALJ nor has the Intervenor requested reopening the proceeding to take additional evidence. The refunded amount, however, was not an excessive repayment of an existing loan obligation. Rather the District was required to refund the unused portion of a loan extended to the District to replace and restore water tank storage capacity and extend service lines to the tanks.

(iii) The payment of 100% of employee health insurance premiums is a benefit provided in lieu of paying higher wages with all the associated fringe benefit costs. (TR. p. 145, 146) and Staff was not critical of this decision.

(iv) The WVIJDC requires the conversion of the current BAN by March, 2010, not 2011, and the claim that there will be sufficient new customers to make the additional payment is speculative.

(v) Deferring the refund of the BAN until March 1, 2010 rather than addressing the request in this proceeding would require a separate petition for sewer rate relief and incur several months delay and additional transactional costs.

In its response, the District also requested clarification of the Recommended Decision. The approved rate increase included funding to acquire a replacement dump truck and tractor but the Recommended Decision did not authorize these purchases and should be amended to do so. In addition, the Recommended Decision contains a typographical error authorizing a tank rehabilitation loan to be repaid over five years, rather than fifteen years, as Staff recommended and the rates allow.

On September 21, 2009, the District requested emergency interim implementation of the recommended rates, subject to refund, arguing it cannot complete operations for the fiscal year at current rates without risking compliance with bond covenants. The District has filed affidavits of publication of the Staff-recommended water and sewer rates.

DISCUSSION

The Commission finds this case to be troubling mainly due to the changing and confusing recommendations that were received throughout the processing of the case. As pointed out in the Recommended Decision, Staff first recommended an increase of approximately 12% in water rates and 6% in sewer rates. The recommendation suggested that the District was adequately staffed, reasonably shared employee responsibilities between water and sewer operations and had relatively low levels of unaccounted-for water. The Staff recommendation further suggested that the District had relatively high levels of infiltration and inflow into its sewer lines, but recommended only further study and consideration of remedial actions by the District.

The Staff indicated that its recommended 12% water rate increase would provide sufficient cash for meeting water operation and maintenance expenses, taxes and debt service and result in a cash surplus available for plant additions of approximately $111,000. Staff further indicated that the District should consider using up to $25,000 per year from existing renewal and replacement cash reserves to fund additional plant additions.

The Staff recommendation regarding the 6% sewer rate increase indicated that the recommended increase would allow the District to meet is ongoing cash requirements and provide $55,000 in cash surplus available for plant additions. The Staff also indicated that up to $20,000 per year of additional cash was available to the District from existing renewal and replacement cash reserves.

On June 9, 2009, Staff filed a second set of recommendations in the FFM that varied significantly from its Final Memorandum. In this revised set of recommendations, Staff changed its recommended water rate increase from 12% to 9.5%, going from a

recommendation that was originally higher than the District's request to one that is now lower than the District's request. Staff changed its recommended sewer increase from 6% to 13.5%, moving in the opposite direction and now recommending an increase higher than the District's request. Even though it reduced its recommended water increase to 9.5%, the Staff indicated that the District could now finance $600,000 for an extensive tank maintenance project and still have cash surplus of approximately $117,000, which was greater than that projected in the first Staff recommendation. Staff again indicated that the District should consider using up to $25,000 per year from existing renewal and replacement cash reserves to fund additional plant additions.

In the June 9, 2009, FFM, Staff recommended a much higher sewer rate increase from its initial recommendation in large part due to the introduction of a proposal to increase debt costs to refinance approximately $2.1 million of an existing BAN that was due to be refinanced in early 2010. Staff also added a recommendation for the financing of a high-velocity pipe cleaning system which had not been mentioned in the initial Staff recommendation. The new Staff sewer rate recommendation would also provide a slightly higher cash surplus as compared to Staff's earlier recommendation. This recommendation did not suggest any ongoing use for the existing renewal and replacement cash reserves for the sewer operations.

On June 12, 2009, Staff filed a Further Final Memorandum that corrected its initial recommendation. This memo indicated that at the original recommendation of a 12% water rate increase, the District would have generated cash surplus for plant additions of approximately $178,000 instead of the originally calculated $111,000.

Staff recommendations are not, and should not be considered, directives of the Commission. The recommendations provide suggestions regarding the operations of the utility and suggestions regarding capital improvements and acquisition of equipment that the utility should seriously consider. Although the Commission may sometimes find it necessary to order specific remedial actions by a utility, when the utility has proposed a rate change and filed a proposed tariff and supporting financial documentation in the format prescribed by *Tariff Rule 42*, a review of requested rates and the justification for such rates is the preferred regulatory approach.

The District originally filed a case requesting an 11% across-the-board increase in its water and sewer rates. The subsequent Staff evaluations of the District's operations and capital requirements have demonstrated that the requested rates are reasonable. We are not inclined to complicate this case further or delay the implementation of a needed rate increase to further analyze the various options that the District has for spending the cash that is produced at its requested 11% rate increase. There is no indication that the District is not properly managing its operations or its cash. To the contrary, the record indicates that the District is in touch with its needs, is proactive in determining the revenue requirements associated with its operational and construction needs and is responsive to suggestions from Staff. The District has indicated that it is committed to the maintenance program for storage

facilities and equipment purchases as recommended by Staff and it appears that the District was doing so before it received such suggestions from Staff. There is no indication that the storage facility maintenance, equipment purchase or normal ongoing plant additions are unreasonable or imprudent. Accordingly, there is no reason why the Commission needs to authorize a particular equipment purchase.

The Commission will not adopt any of the across-the-board rate recommendations made by Staff or the Recommended Decision of the ALJ. The Commission concludes that the District's original *Tariff Rule* 42A application for a water rate increase of approximately $176,051, or 11%, and a sewer rate increase of approximately $117,033, or 11% is a reasonable rate increase for the District. The record supports a finding that these increases originally requested by the District were reasonable and would produce revenue that was sufficient, but not more than sufficient, to operate the utility in a reasonable and efficient manner. We shall also adopt the Staff recommended leak adjustment rate and minor modification to wording in certain tariff provisions to make them consistent with current Commission policy. We note that the water rate increase herein authorized provides sufficient cash for the District to proceed with the accelerated maintenance project on its water storage facilities and we expect the District to follow through on that project. The Commission will herein approve the financing of the proposed water storage facility maintenance project and authorize a tank rehabilitation loan to be repaid over five years.

We further note that the District has requested approval to refinance a portion of its existing Sewer BAN. The Commission will herein approve the refinancing of that note, with permanent financing of up to $2,136,720 at 0% for 30 years and a new Bond Anticipation Note which shall carry an interest rate of 0% for five years with an annual payment of $100 and which will become due and payable at March 1, 2015.

FINDINGS OF FACT

1. The District filed a *Tariff Rule* 42A application requesting an increase in its annual revenue for providing water service by approximately $176,050, or 11%, and an increase in its annual revenues for providing sewer service by approximately $117,033, or 11%. *See,* November 24, 2008 application.

2. The ALJ granted intervenor status to Mr. Penczak.

3. The WVIJDC approved the District's request to convert $2,136,720 of a 2005 BAN to permanent financing.

4. Staff revised its water report, resulting in a change in the Staff-recommended water rate increase from 6 % across-the-board to 9.53% across-the-board. Staff further revised its sewer report to provide debt service to convert approximately $2,136,720 of a BAN to

permanent financing, resulting in a change in the Staff-recommended sewer rate increase from 6% across -the-board to 13.5% across-the-board.

5. The ALJ recommended approval of the Staff-recommended water and sewer rates and the BAN conversion.

6 Intervenor Penczak filed exceptions to the Recommended Decision.

7. The District responded to the exceptions.

CONCLUSIONS OF LAW

1. The District's original *Tariff Rule* 42A application for a water rate increase of approximately $176,051, or 11%, and a sewer rate increase of approximately $117,033, or 11% is a reasonable rate increase for the District.

2. The across-the-board increases originally requested by the District were reasonable and will produce revenue that is sufficient, but not more than sufficient, to operate the utility in a reasonable and efficient manner.

3. It is reasonable for the Commission to approve the financing of $600,000 for the proposed water storage facility maintenance project and authorize a tank rehabilitation loan to be repaid over five years.

4. It is reasonable for the Commission to approve the refinancing of the District's existing Sewer Bond Anticipation Note, with permanent financing of up to $2,136,720 at 0% for 30 years and a new Bond Anticipation Note which shall carry an interest rate of 0% for five years with an annual payment of $100 and which will become due and payable at March 1, 2015.

ORDER

IT IS FURTHER ORDERED that the District's application for a water and sewer rate increase, attached hereto as Appendix A and B, is approved for all services rendered on or after the date of this order.

IT IS FURTHER ORDERED that financing of $600,000 for the proposed water storage facility maintenance project is approved.

IT IS FURTHER ORDERED that a tank rehabilitation loan to be repaid over five years is approved.

IT IS FURTHER ORDERED that refinancing of the District's existing Sewer Bond Anticipation Note, with permanent financing of up to $2,136,720 at 0% for 30 years and a new

Bond Anticipation Note which shall carry an interest rate of 0% for five years with an annual payment of $100 and which will become due and payable on March 1, 2015 is approved.

IT IS FURTHER ORDERED that onentry of this order this case shall be removed from the Commission docket of open cases.

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

A True Copy. Teste: Sandra Squire

Sandra Squire
Executive Secretary

MEB/ldd
082016ca.wpd

LUBECK PUBLIC SERVICE DISTRICT
COMMISSION APPROVED WATER TARIFF

APPLICABILITY
Available within entire territory served.

AVAILABILITY
Available for general domestic, commercial and industrial water service.

RATES

First	5,000	gallons used per month	$7.08 per 1,000 gallons
Next	95,000	gallons used per month	$5.35 per 1,000 gallons
All Over	100,000	gallons used per month	$2.97 per 1,000 gallons

MINIMUM CHARGE
No minimum bill will be rendered for less than $12.76 per month which is the equivalent of 2,000 gallons of water.

5/8	inch meter	2,000	gallons	$ 14.16 per month
1	inch meter	5,000	gallons	$ 35.41 per month
2	inch meter	19,782	gallons	$113.31 per month
3	inch meter	38,589	gallons	$212.45 per month
4	inch meter	65,456	gallons	$354.09 per month
6	inch meter	158,675	gallons	$708.18 per month

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

PRIVATE FIRE PROTECTION SERVICE
Where connections, hydrants, sprinklers, etc. on private property are maintained by comsumer:

4 - inch service line with hydrants, sprinklers, and/or hose connections $ 7.77
6 - inch service line with hydrants, sprinklers, and/or hose connections $12.21
8 - inch service line with hydrants, sprinklers, and/or hose connections $15.54
10 - inch service line with hydrants, sprinklers, and/or hose connections $18.87

These terms are payable monthly in advance.

SPECIAL FIRE PROTECTION CHARGE

Where connections, hydrants, sprinklers, etc. on private property are maintained by the consumer requiring cycling of pumps to maintain system:

Non-Static Connection	$98.79 per month

HAULING TAP CHARGES

Water purchased at the District office hauling tap shall be dispensed at a charge of $0.25 (twenty-five cents) per 100 gallons.

DELAYED PAYMENT PENALTY

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

RECONNECTION FEE -- $30.00

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

SURCHARGE

$1.00 per 1,000 gallons billed for a period not to exceed the total repayment of the Rural Utility Service Loan dated March 28, 1997, for customers in the Hopewell, Hope Hill and Missouri Run extension area funded by this loan.

TAP FEE

The following charge is to be made whenever the utility installs a new tap to serve an applicant:

A tap fee of Five Hundred Dollars ($500.00) will be charged to all customers who apply for service outside of a certificate proceeding before the Commission for each new tap to the system.

INCREMENTAL LEAK ADJUSTMENT

$0.42 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate shall be applied to all such consumption above customer's historical average usage.

SECURITY DEPOSIT

Not to exceed one-sixth (1/6th) of the annual estimated charge for service or Fifty Dollars ($50.00), whichever is greater.

METER TESTING REQUESTED BY CUSTOMER

A customer requesting that their water meter be tested will be charged Forty Dollars ($40.00). If the meter is found to be more than 2% in error, the amount advanced shall be promptly refunded to the customer or credited to his/her account. If the meter is not found to be more than 2% in error, the Utility shall retain the amount advanced by the customer for the test.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of $15.00 shall also be collected in addition to the delinquent water bill.

LUBECK PUBLIC SERVICE DISTRICT
COMMISSION APPROVED SEWER TARIFF

APPLICABILITY

Available within entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES

A Customer Charge of $8.49 for each bill
A Volumetric Charge of $8.72 per 1,000 gallons

MINIMUM CHARGE

$8.49

CUSTOMERS WHO ARE NON-WATER USERS

All users of the Sanitary Sewer disposal service who are not users of the District's water service will be required to have a water meter installed on the private water system, at the District's cost, for the purpose of determining the sewer charge.

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to the net amount shown. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

Five Hundred Dollars ($500.00)

RETURNED CHECK CHARGEFOR UNMETERED CUSTOMERS ONLY

The District may not collect any fee greater than that charged to it by a banking institution and under no circumstances shall the fee collected by the District exceed $15.00.

ROOF CONNECTIONS

The connection of surface drains to the sanitary sewer system is prohibited by Public Service Commission Sewer Rules and Regulations 5.4.19. After a thirty day notice to disconnect, if the customer has not disconnected, the District shall bill at standard rates the inflow treated from such source. Said gallonage shall be computed by determining the square footage of the structure or source involved and the precipitation during the billing cycle period. The resulting gallonage quantity shall be the basis for this additional billing. Failure to disconnect said connection within six months of notice shall be basis for service termination.

METER TESTING REQUESTED BY SEWER ONLY CUSTOMER

A customer requesting that their water meter be tested will be charged Forty Dollars ($40.00). If the meter is found to be more than 2% in error, the amount advanced shall be promptly refunded to the customer or credited to his/her account.. If the meter is not found to be more than 2% in error, the Utility shall retain the amount advanced by the customer for the test.

FAILURE OF CUSTOMER TO CONNECT TO SANITARY SEWER

Any customer who fails to connect to available sanitary sewer service shall be liable for a sewer bill based upon water consumption. Available service is defined in the Sewer Use Resolution as adopted and reviewed by the Lubeck Public Service District Board of Commissioners. The District shall notify such customer of said liability by certified mail, sixty days before billing shall commence.

LEAK ADJUSTMENT INCREMENT

$1.99 per 1,000 Gallons. To be used when the bill reflects unusual consumption which can be attributed to eligible leakage on customer's side of the meter. This rate is used to calculate consumption above the customer's historical average usage.

SECURITY DEPOSIT

Not to exceed one-sixth (1/6th) of the annual estimated charge for service or Fifty Dollars ($50.00), whichever is greater.

ADMINISTRATIVE FEE

In the event the District collects payment in full of a delinquent water bill at the customer's premises in lieu of a discontinuance of service for nonpayment, an administrative fee of $15.00 shall also be collected in addition to the delinquent water bill.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 3rd day of December 2009.

CASE NO. 08-2016-PSWD-42A

LUBECK PUBLIC SERVICE DISTRICT,
a public utility, Wood County.
Rule 42A application to increase water and sewer rates and charges.

COMMISSION CORRECTIVE ORDER

On November 13, 2009, the Commission issued an Order approving a water and sewer rate increase for the Lubeck Public Service District, as filed by the District.

It has come to the attention of the Commission that the water tariff filed by the District which was approved and attached to the Order ("Attachment A") contains errors. The Minimum Charge section, on page one of Attachment A, paragraph one, incorrectly states the minimum bill amount and does not clearly describe that there were multiple minimum charges depending on meter size.

It has further come to the attention of the Commission that the Order issued on November 13, 2009 incorrectly stated that the approved $600,000 tank rehabilitation loan would be repaid over five years. Conclusion of Law Number 3 and Ordering Paragraph 3. The proposed and approved repayment term was actually fifteen years rather than five years.

IT IS THEREFORE ORDERED that Conclusion of Law Number 3 in the November 13, 2009 is modified to refer to a repayment term of fifteen years.

IT IS FURTHER ORDERED that a tank rehabilitation loan to be repaid over fifteen years is approved.

IT IS FURTHER ORDERED that to correct the error in the November 13, 2009 Order and ambiguity in the filed tariff, the water tariff Minimum Charge section previously approved by the Commission is corrected to read as follows:

MINIMUM CHARGE

No bill will be rendered for less than the following amount, depending on the size of the meter serving the customer.

5/8 inch meter	$14.16 per month
1 inch meter	$35.40 per month
2 inch meter	$113.30 per month
3 inch meter	$212.40 per month
4 inch meter	$354.00 per month
6 inch meter	$708.00 per month

IT IS FURTHER ORDERED that except as corrected herein, the November 13, 2009 Order remains in full force and effect.

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

A True Copy, Teste: Sandra Squire

Sandra Squire
Executive Secretary

MEB/ldd
082016cb.wpd

WEST VIRGINIA
Infrastructure & Jobs Development Council

Gov. Joe Manchin, III
Chairman

Kenneth Lowe, Jr.
Public Member

Dwight Calhoun
Public Member

David "Bones" McComas
Public Member

Ron Justice
Public Member

Angela K. Chestnut
Executive Director

Barbara J. Pauley
Administrative Secretary

June 4, 2009

James Cox, Manager
Lubeck Public Service District
P.O. Box 700
Washington, West Virginia 26181-0700

RE: Lubeck Public Service District
IJDC Project: 96S-275
$6,278,679 Bond Anticipation Note

Dear Mr. Cox:

The West Virginia Infrastructure and Jobs Development Council (Council), at its June 3, 2009 meeting, reviewed the Lubeck Public Service District's (District) request to restructure Sewerage System Bond Anticipation Notes 2005 (BAN) issued by the District to the West Virginia Water Development Authority (WDA) on behalf of the Council. The BAN matures on March 1, 2010.

The Council reviewed and approved the District's request to convert a portion of the BAN to bonds and to reissue a smaller bond anticipation note as outlined on the attached Schedule A.

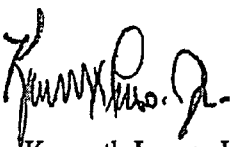
The Council will enter into Loan agreements with the District following receipt of the completed Schedule B, a final, non-appealable order from the Public Service Commission authorizing the borrowing and any other documents requested by the Council.

No statements or representations made before or after the issuance of this contingent commitment by any person 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 this commitment letter is acceptable to the District, please execute two copies of this letter and return to the Council at the address below not later than **July 15, 2009.** If the Council does not receive this acknowledged commitment letter by July 15, 2009, the Council shall consider this offer rejected.

If the District has any questions regarding this commitment, please contact Angela K. Chestnut at the 304-558-4607.

Sincerely,



Kenneth Lowe, Jr.

Attachments

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

LUBECK PUBLIC SERVICE DISTRICT

By:_____

Its:_____

Date:_____

cc: Samme Gee, Esq., Jackson Kelly

Lubeck Public Service District
Sewer Project 96S-275
June 4, 2009

SCHEDULE A

A. Infrastructure Fund BAN closed September 27, 2005

1.	BAN Amount	$6,278,679
2.	Maturity Date	March 1, 2010
3.	Repayments	$100 / year (5 payments)
4.	Remaining Balance on March 1, 2010 (maturity date)	$6,278,679

B. Restructure Infrastructure Fund BAN

1. Total to be restructured $16,569,400

2. Loan #1 $2,136,720

a)	Maturity Date:	March 1, 2039
b)	Interest Rate:	0%
c)	Repayments	Monthly to Municipal Bond Commission (commencing December 1, 2009 or March 1, 2010)
d)	Debt Service Commencement	March 1, 2010 or June 1, 2010 (to Infrastructure Fund)
e)	Reserve requirements: (Requirement activates upon commencement the of debt service payments)	One year's annual debt service OR Funding one year's annual debt service over first ten years.
f)	Coverage	115% unless reserve fund is fully funded then coverage is 110%

2. Loan #2 $4,141,959

a) Bond Anticipation Note $4,141,959

b) Maturity Date: March 1, 2015

c) Interest Rate: 0%

d) Debt Service Schedule:

June 1, 2010	$ 100
June 1, 2012	$ 100
June 1, 2013	$ 100
June 1, 2014	$ 100
March 1, 2015	$4,141,959

e) Reserve Requirement: none

IC-1
(08/09)

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").

LUBECK PUBLIC SERVICE DISTRICT
(96S-275)

(Governmental Agency)

W I T N E S S E T H:

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

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

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

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

WHEREAS, the Governmental Agency has completed and filed with the Authority an Application for a Construction Loan with attachments and exhibits and an

Amended Application for a Construction Loan also with attachments and exhibits (together, as further revised and supplemented, the "Application"), which Application is incorporated herein by this reference; and

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

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

ARTICLE I

Definitions

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II

The Project and the System

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

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

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

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

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent

(100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds are outstanding, business interruption insurance if available at a reasonable cost.

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

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

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

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

2.13 The Governmental Agency shall serve the additional customers at the location(s) as set forth in Schedule X. The Governmental Agency shall not reduce the amount of additional customers served by the project without the prior written approval of the WDA Board. Following completion of the Project the Governmental Agency shall certify to the Authority the number of customers added to the System.

2.14 The Governmental Agency shall perform an annual maintenance audit which maintenance audit shall be submitted to the WDA and the Public Service Commission of West Virginia.

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IV

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

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

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

(i) to pay Operating Expenses of the System;

(ii) to the extent not otherwise limited by any outstanding loan resolution, indenture or other act or document and beginning on the date set forth in Schedule X, to provide debt service on the Local Bonds by depositing in a sinking fund one-third (1/3) of the interest payment next coming due on the Local Bonds and one-third (1/3) of the

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

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

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

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

(b) Covenants substantially as follows:

(i) That the Local Bonds shall be secured by a pledge of either the gross or net revenues of the System, as more fully set forth in Schedule X attached hereto and in the Local Act;

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

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

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

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

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

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

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and

the Council, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Governmental Agency's revenues are adequate to meet its Operating Expenses and debt service and reserve requirements;

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

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

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

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

(xvi) That the West Virginia Municipal Bond Commission (the "Commission") shall serve as paying agent for the Local Bonds;

(xvii) That the Governmental Agency shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required interest, principal and reserve account payment. The Governmental Agency shall complete the Monthly Payment Form, attached hereto as Exhibit D and incorporated herein by reference, and submit a copy of said form along with a copy of the check or electronic transfer to the Authority by the 5th day of such calendar month. When required by the Authority, the Local Entity shall make monthly payments to the Commission by electronic transfer;

(xviii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, which exception shall be set forth in an opinion of bond counsel, the Governmental Agency will furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Internal Revenue Code of 1986, as amended, a certificate with respect to its rebate calculations and, at any time, any additional information requested by the Authority;

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

(xx) That the Governmental Agency shall have obtained the certificate of the Consulting Engineer in the form attached hereto as Exhibit A, to the effect that the Project has been or will be constructed in accordance with the approved plans, specifications and design as submitted to the Authority and the Council, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Authority and the Council is sufficient to pay the costs of acquisition and construction of the Project and all permits required by federal and State laws for construction of the Project have been obtained;

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

(xxii) That the Governmental Agency shall furnish to the Authority such information with respect to earnings on all funds constituting "gross proceeds" of the Local Bonds (as that term is defined in the Internal Revenue Code of 1986, as amended) from time to time as the Authority may request;

(xxiii) That the Governmental Agency shall submit all proposed change orders to the Council for written approval. The Governmental Agency shall obtain the written approval of the Council before expending any proceeds of the Local Bonds held in "contingency" as set forth in the final Schedule B attached to the certificate of the Consulting Engineer. The Governmental Agency shall obtain the written approval of the Council before making any changes to the final Schedule B and also before expending any proceeds of the Local Bonds available due to bid/construction/project underruns;

(xxiv) That the Governmental Agency shall list the funding provided by the Authority and the Council in any press release, publication, program bulletin,

sign or other public communication that references the Project, including but not limited to any program document distributed in conjunction with any groundbreaking or dedication of the Project; and

(xxv) That, unless it qualifies for an exception, the Governmental Agency shall comply with all the requirements of Chapter 21, Article 1C of the Code of West Virginia, 1931, as amended (the "West Virginia Jobs Act") and shall require its contractors and subcontractors to comply with the West Virginia Jobs Act. The Governmental Agency shall provide the Council and the Authority with a certificate stating that (I) the Governmental Agency will comply with all the requirements of the West Virginia Jobs Act; (II) the Governmental Agency has included the provisions of the West Virginia Jobs Act in each contract and subcontract for the Project; (III) the Governmental Agency has received or will receive, prior to entering into contracts or subcontracts, from each contractor or subcontractor a certificate demonstrating compliance with Section 4 of the West Virginia Jobs Act or waiver certificates from the West Virginia Division of Labor ("DOL"); and (IV) the Governmental Agency will file with the DOL and the Council copies of the waiver certificates and certified payrolls or comparable documents that include the number of employees, the county and state wherein the employees reside and their occupation, following the procedures established by the DOL. The monthly requisitions submitted to the Council shall also certify that the Governmental Agency is monitoring compliance by its contractors and subcontractors and that the required information has been submitted.

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

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

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

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

4.5 The Local Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the

Governmental Agency. Anything to the contrary herein notwithstanding, the Local Bonds may be issued in one or more series, as reflected by Schedule X hereto.

4.6 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the bonds which are the source of money used to purchase the Local Bonds, unless otherwise agreed to by the Council.

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds shall prove to be insufficient to produce the required sums set forth in the Local Act and this Loan Agreement, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges (or where applicable, immediately file with the PSC for a rate increase) and take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Local Act and this Loan Agreement.

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

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including, without limitation, the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

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

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

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

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

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

ARTICLE VII

Miscellaneous

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

7.2 Schedules X and Y shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority and the Council.

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

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

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

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

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

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

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

7.10 This Loan Agreement shall terminate upon the earlier of:

(i) the end of ninety (90) days after the date of execution hereof by the Authority or such later date as is agreed to in writing by the Council if the Governmental Agency has failed to deliver the Local Bonds to the Authority;

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

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

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

LUBECK PUBLIC SERVICE DISTRICT

(SEAL)

By: _____
Its: Chairperson
Date: February 25, 2010

Attest:

_____
Its: Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Executive Director
Date: February 25, 2010

Attest:

_____
Its: Secretary-Treasurer

{C1680114.1}

EXHIBIT A

FORM OF CERTIFICATE OF CONSULTING ENGINEER

_____

(Issuer)

_____

(Name of Bonds)

I, _____, Registered Professional Engineer, West Virginia License No. _____, of _____, Consulting Engineers,_____, _____ hereby certify as follows:

1. My firm is engineer for the acquisition and construction of _____ to the _____ system (the "Project") of _____ (the "Issuer"), to be constructed primarily in _____ County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the same meanings set forth in the bond _____ adopted or enacted by the Issuer on _____, and the Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), dated _____.

2. The Bonds are being issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

3. To the best of my knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by my firm and approved by [DEP/BPH/PSC] and any change orders approved by the Issuer, the Council and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and has a useful life of at least ___years if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A and my firm[1] has ascertained that all

[1]If another responsible party, such as the Issuer's attorney, reviews the insurance and payment bonds, then insert the following: [and in reliance upon the opinion of _____,

successful bidders have made required provisions for all insurance and payment and performance bonds and that such insurance policies or binders and such bonds have been verified for accuracy; (iv) the successful bidders received any and all addenda to the original bid documents; (v) the bid documents relating to the Project reflect the Project as approved by the [DEP/BPH/PSC] and the bid forms provided to the bidders contain all critical operational components of the Project; (vi) the successful bids include prices for every item on such bid forms; (vii) the uniform bid procedures were followed; (viii) the Issuer has obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and operation of the System; (ix) as of the effective date thereof, [2]the rates and charges for the System as adopted by the Issuer will be sufficient to comply with the provisions of the Loan Agreement; (x) the net proceeds of the Bonds, together with all other moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants, if any, irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project set forth in the Schedule B attached hereto and approved by the Council; and (xi) attached hereto as Exhibit A is the final amended "Schedule B - Final Total Cost of Project, Sources of Funds and Costs of Financing" for the Project.

WITNESS my signature and seal on this ____ day of _____, ___.

[SEAL]

_____

By: _____
West Virginia License No. _____

Esq.] and delete "my firm has ascertained that".

[2]If the Rule 42 Exhibit and/or rate structure was prepared by an accountant, then insert the following: "In reliance upon the certificate of _____ of even date herewith," at the beginning of (ix).

EXHIBIT B

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
300 Summers Street, Suite 980
Charleston, West Virginia 25301

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Ladies and Gentlemen:

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

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

The Local Bonds are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local Statute"), and the bond _____ duly adopted or enacted by the Governmental Agency on _____, as supplemented by the supplemental resolution duly adopted by the Governmental Agency on _____ (collectively, the "Local Act"), pursuant to and under which Local Statute and Local Act the Local Bonds are authorized and issued, and the Loan Agreement has been undertaken. The Local Bonds are subject to redemption prior

to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Governmental Agency is a duly organized and validly existing _____, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Local Bonds, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bonds have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid, legally enforceable and binding special obligations of the Governmental Agency, payable from the net or gross revenues of the System set forth in the Local Act and secured by a first lien on and pledge of the net or gross revenues of the System, all in accordance with the terms of the Local Bonds and the Local Act.

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

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

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

Very truly yours,

EXHIBIT C

MONTHLY FINANCIAL REPORT

Name of Governmental Agency _____
Name of Bond Issue(s) _____
Type of Project _____ **Water** _____ **Wastewater**
Fiscal Year _____ **Report Month** _____

Item	Current Month	Total Year To Date	Budget Year To Date	Budget Year To Date Minus Total Year To Date
1. Gross Revenues				
2. Operating Expenses				
3. Bond Payments:				
Type of Issue				
Clean Water SRF				
Drinking Water TRF				
Infrastructure Fund				
Water Development Authority				
Rural Utilities Service				
Economic Development Administration				
Other (Identify)				
_____				
_____				
4. Renewal and Replacement Fund Deposits				

_____
Name of Person Completing Form

_____
Address

_____
Telephone

INSTRUCTIONS FOR COMPLETING MONTHLY FINANCIAL REPORT

Item 1 You will need a copy of the current fiscal year budget adopted by the Governmental Agency to complete Items 1 and 2. In Item 1, provide the amount of actual **Gross Revenues** for the current month and the total amount year-to-date in the respective columns. Divide the budgeted annual Gross Revenues by 12. For example, if Gross Revenues of $1,200 are anticipated to be received for the year, each month the base would be increased by $100 ($1,200/12). This is the incremental amount for the Budget Year-to-Date column.

Item 2 Provide the amount of actual **Operating Expenses** for the current month and the total amount year-to-date in the respective columns. Any administrative fee should be included in the Operating Expenses. Divide the budgeted annual Operating Expenses by 12. For example, if Operating Expenses of $900 are anticipated to be incurred for the year, each month the base would be increased by $75 ($900/12). This is the incremental amount for the Budget Year-to-Date column.

Item 3 Provide the **Bond Payments (principal, interest and reserve account)** for all the outstanding bonds of the Governmental Agency according to the source of funding. For example, Clean Water State Revolving Fund loan from Department of Environmental Protection, Drinking Water Treatment Revolving Fund loan from Bureau for Public Health, Infrastructure Fund loan from Infrastructure and Jobs Development Council, or a loan from the Water Development Authority, etc.

Item 4 Provide the amount deposited into the **Renewal and Replacement Fund** each month. This amount is equal to 2.5% of Gross Revenues minus the total reserve account payments included in Item 3. If Gross Revenues are $1,200, then $30 (2.5% of $1,200), LESS the amount of all reserve account payments in Item 3 should be deposited into the Renewal and Replacement Fund. The money in the Renewal and Replacement Fund should be kept separate and apart from all other funds of the Governmental Agency.

The Governmental Agency must complete the Monthly Financial Report and forward it to the Water Development Authority by the 10th day of each month, commencing on the date contracts are executed for the acquisition or construction of the Project and for two years following the completion of acquisition or construction of the Project.

EXHIBIT D

MONTHLY PAYMENT FORM

West Virginia Water Development Authority
180 Association Drive
Charleston, WV 25311

Re: [Name of bond issue]

Ladies and Gentlemen:

The following deposits were made to the West Virginia Municipal Bond Commission on behalf of [Name of Governmental Agency] on [Date].

Sinking Fund:	
Interest	$
Principal	$
Total:	$
Reserve Account:	$

Witness my signature this ___ day of_____.

[Name of Governmental Agency]

By: _____
Authorized Officer

Enclosure: copy of check(s)

SCHEDULE X

DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds $2,136,720
Purchase Price of Local Bonds $2,136,720

The Local Bonds shall bear no interest. Commencing June 1, 2010, principal on the Local Bonds is payable quarterly. Quarterly payments will be made on March 1, June 1, September 1 and December 1 of each year as set forth on the Schedule Y attached hereto and incorporated herein by reference.

The Governmental Agency shall authorize the Commission to electronically debit its monthly payments. The Commission will make quarterly payments to the Authority at such address as is given to the Commission in writing by the Authority.

The Local Bonds are fully registered in the name of the Authority as to interest, if any, and principal and the Local Bonds shall grant the Authority a first lien on the gross or net revenues of the Governmental Agency's system as provided in the Local Act.

The Governmental Agency may prepay the Local Bonds in full at any time at the price of par but only with the Council's written consent. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency on a parity with the Local Bonds which request must be filed at least 60 days prior to the intended date of issuance.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to liens, pledge and source of and security for payment with the following obligations of the Governmental Agency:

Lubeck Public Service District Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), dated September 27, 2005, in the original aggregate principal amount of $6,278,679.

Number of New Customers to Be Served: 0
Location: N/A
Take out of BAN Financing

SCHEDULE Y
DEBT SERVICE SCHEDULE

	Lubeck PSD				
	IF				
	0% Interest Rate				
		Dated Date	2/25/10		
		Delivery Date	2/25/10		
	Period Ending	**Principal**	**Interest**	**Debt Service**	
	2/25/10				
	6/1/10	18,420		18,420	
	9/1/10	18,420		18,420	
	12/1/10	18,420		18,420	
	3/1/11	18,420		18,420	
	6/1/11	18,420		18,420	
	9/1/11	18,420		18,420	
	12/1/11	18,420		18,420	
	3/1/12	18,420		18,420	
	6/1/12	18,420		18,420	
	9/1/12	18,420		18,420	
	12/1/12	18,420		18,420	
	3/1/13	18,420		18,420	
	6/1/13	18,420		18,420	
	9/1/13	18,420		18,420	
	12/1/13	18,420		18,420	
	3/1/14	18,420		18,420	
	6/1/14	18,420		18,420	
	9/1/14	18,420		18,420	
	12/1/14	18,420		18,420	
	3/1/15	18,420		18,420	
	6/1/15	18,420		18,420	
	9/1/15	18,420		18,420	
	12/1/15	18,420		18,420	
	3/1/16	18,420		18,420	
	6/1/16	18,420		18,420	
	9/1/16	18,420		18,420	
	12/1/16	18,420		18,420	
	3/1/17	18,420		18,420	
	6/1/17	18,420		18,420	
	9/1/17	18,420		18,420	
	12/1/17	18,420		18,420	
	3/1/18	18,420		18,420	
	6/1/18	18,420		18,420	
	9/1/18	18,420		18,420	
	12/1/18	18,420		18,420	
	3/1/19	18,420		18,420	
	6/1/19	18,420		18,420	
	9/1/19	18,420		18,420	
	12/1/19	18,420		18,420	
	3/1/20	18,420		18,420	
	6/1/20	18,420		18,420	
	9/1/20	18,420		18,420	
	12/1/20	18,420		18,420	
	3/1/21	18,420		18,420	

	Lubeck PSD			
	IF			
	0% Interest Rate			
	Period Ending	Principal	Interest	Debt Service
	6/1/21	18,420		18,420
	9/1/21	18,420		18,420
	12/1/21	18,420		18,420
	3/1/22	18,420		18,420
	6/1/22	18,420		18,420
	9/1/22	18,420		18,420
	12/1/22	18,420		18,420
	3/1/23	18,420		18,420
	6/1/23	18,420		18,420
	9/1/23	18,420		18,420
	12/1/23	18,420		18,420
	3/1/24	18,420		18,420
	6/1/24	18,420		18,420
	9/1/24	18,420		18,420
	12/1/24	18,420		18,420
	3/1/25	18,420		18,420
	6/1/25	18,420		18,420
	9/1/25	18,420		18,420
	12/1/25	18,420		18,420
	3/1/26	18,420		18,420
	6/1/26	18,420		18,420
	9/1/26	18,420		18,420
	12/1/26	18,420		18,420
	3/1/27	18,420		18,420
	6/1/27	18,420		18,420
	9/1/27	18,420		18,420
	12/1/27	18,420		18,420
	3/1/28	18,420		18,420
	6/1/28	18,420		18,420
	9/1/28	18,420		18,420
	12/1/28	18,420		18,420
	3/1/29	18,420		18,420
	6/1/29	18,420		18,420
	9/1/29	18,420		18,420
	12/1/29	18,420		18,420
	3/1/30	18,420		18,420
	6/1/30	18,420		18,420
	9/1/30	18,420		18,420
	12/1/30	18,420		18,420
	3/1/31	18,420		18,420
	6/1/31	18,420		18,420
	9/1/31	18,420		18,420
	12/1/31	18,420		18,420
	3/1/32	18,420		18,420
	6/1/32	18,420		18,420
	9/1/32	18,420		18,420
	12/1/32	18,420		18,420
	3/1/33	18,420		18,420
	6/1/33	18,420		18,420

Lubeck PSD

IF

0% Interest Rate

Period Ending	Principal	Interest	Debt Service
9/1/33	18,420		18,420
12/1/33	18,420		18,420
3/1/34	18,420		18,420
6/1/34	18,420		18,420
9/1/34	18,420		18,420
12/1/34	18,420		18,420
3/1/35	18,420		18,420
6/1/35	18,420		18,420
9/1/35	18,420		18,420
12/1/35	18,420		18,420
3/1/36	18,420		18,420
6/1/36	18,420		18,420
9/1/36	18,420		18,420
12/1/36	18,420		18,420
3/1/37	18,420		18,420
6/1/37	18,420		18,420
9/1/37	18,420		18,420
12/1/37	18,420		18,420
3/1/38	18,420		18,420
6/1/38	18,420		18,420
9/1/38	18,420		18,420
12/1/38	18,420		18,420
3/1/39	18,420		18,420
	2,136,720		**2,136,720**

SCHEDULE Z

None.

IC/BAN-1
(11/01/04)

LOAN AGREEMENT

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

LUBECK PUBLIC SERVICE DISTRICT (96S-275)
(Governmental Agency)

W I T N E S S E T H:

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

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

WHEREAS, the Governmental Agency is authorized and empowered by the statutes of the State to acquire, construct, improve, operate and maintain a project, as defined by the Act, and to finance the cost of acquisition and construction of the same by borrowing money to be evidenced by bonds, notes or other negotiable instruments 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 loan with attachments and exhibits (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 the notes of the Governmental Agency with money in the Infrastructure Fund, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Council's loan program (the "Program") as hereinafter set forth.

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

ARTICLE I

Definitions

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

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

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

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

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

1.6 "Local Act" means the resolution, ordinance or other official action of the Governmental Agency required by Section 4.1 hereof, authorizing the issuance of the Notes.

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

1.8 "Notes" means the notes to be issued by the Governmental Agency pursuant to the provisions of the Local Statute to evidence the Loan and to be purchased by the Authority, all in accordance with the provisions of this Loan Agreement.

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

1.10 "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.

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

ARTICLE II

The Project and the System

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

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

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

transfer of all or a portion of said property or any interest therein is approved by the Authority and Council.

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and

vehicle liability insurance in amounts and on terms satisfactory to the Council and the Authority and shall verify or have verified such insurance prior to commencement of construction. Until the Project facilities are completed and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Notes is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Notes are outstanding, business interruption insurance if available at a reasonable cost.

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

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

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

ARTICLE III

Conditions to Loan;
Issuance of Notes

3.1 The agreement of the Authority and Council to make the Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority and the Council, of each and all of those certain conditions precedent on or before the delivery date for the Notes, 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 Notes described in this Article III and in Article IV hereof;

(c) The Governmental Agency shall either have received bids or entered into contracts for the construction of the Project which are in an amount and otherwise compatible with the plan of financing described in the Application; provided that, if the Loan will refund an interim construction financing, the Governmental Agency must either be constructing or have constructed its Project for a cost and as otherwise compatible with the plan of financing described in the Application;

(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;

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

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Notes required by State law, and the Authority and the

Council shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(g) The net proceeds of the Notes, together with all moneys on deposit or to be simultaneously deposited 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 evidence satisfactory to the Authority of such irrevocably committed funds.

3.2 Subject to the terms and provisions of this Loan Agreement, the rules and regulations promulgated by the Authority, the Council or any other appropriate State agency and any applicable rules, regulations and procedures promulgated from time to time by the federal government, it is hereby agreed that the Authority shall make the Loan to the Governmental Agency and the Governmental Agency shall accept the Loan from the Authority, and in furtherance thereof it is agreed that the Governmental Agency shall sell to the Authority and the Authority shall make the Loan by purchasing the Notes in the principal amount and at the price set forth in Schedule X hereto. The Notes 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 Notes 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 Notes shall be delivered to the Authority on a date as close as possible to the designated date and mutually agreeable to the Authority, the Council and the Governmental Agency. The date of delivery so designated or agreed upon is hereinafter referred to as the "Date of Loan Closing." Notwithstanding the foregoing, the Date of Loan Closing shall in no event occur more than ninety (90) days after the date of execution of this Loan Agreement by the Authority.

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

Notes unless and until sufficient funds are available in the Infrastructure Fund to purchase all the Notes and that, prior to execution of this Loan Agreement, the Authority may commit to and purchase the notes and/or revenue bonds of other governmental agencies for which it has sufficient funds available.

3.6 The Governmental Agency shall prepay the Notes from the proceeds of any permanent financing it obtains for the Project.

ARTICLE IV

Notes; 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 Notes pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted or adopted, contain provisions and covenants in substantially the form as follows, unless the specific provision or covenant is modified or waived by the Council:

(a) The Governmental Agency hereby pledges the following sources of funds as security for the Notes:

(i) Proceeds of any grants (other than Infrastructure Fund grants) received by the Governmental Agency for the System, and

(ii) Proceeds of any revenue bonds, refunding bonds, bond anticipation notes or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes.

In the event any grants (other than Infrastructure Fund grants) are received by the Governmental Agency, or any revenue bonds, refunding bonds, bond anticipation notes or other obligations of the Governmental Agency are issued, the Governmental Agency shall pay the entire outstanding principal of and interest, if any, accrued to the maturity date of the Notes, from such sources.

(b) The Governmental Agency hereby covenants substantially as follows:

(i) That the Governmental Agency shall complete or has completed the Project and will operate and maintain the System in good condition;

(ii) That the Governmental Agency recognizes that the Authority may by proper legal action compel the performance of the duties of the Governmental Agency under the Local Act, and shall also have, in the event of a default in the payment of principal of and interest, if any, on the Notes, the right to obtain the appointment of a receiver to administer the System or construction of the Project, or both, as provided by law;

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

(iv) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant or independent public accountant and shall submit the report of said audit to the Authority and the Council, which report shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the Governmental Agency's revenues are adequate to meet its operation and maintenance expenses and debt service requirements;

(v) 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;

(vi) That the proceeds of the Notes must be deposited in a notes project 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 Notes shall have a lien until such proceeds are applied to the payment of the costs of the Project or to the payment of bond anticipation notes or other interim financing of such Governmental Agency, the proceeds of which were used to finance the costs of the Project;

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

(viii) That, unless it qualifies for an exception to the provisions of Section 148 of the Internal Revenue Code of 1986, as amended, (the "Code"), which exception shall be set forth in an opinion of bond counsel, or, at the option of the Authority, the loan is not tax-exempt, 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 or to the effect that no rebate is payable, and, at any time, any additional information requested by the Authority;

(ix) That the Governmental Agency shall take any and all action, or shall refrain from taking any action regarding the use of the proceeds of the Notes, 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 issued to provide moneys for the Infrastructure Fund, or any bonds secured by the Notes;

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

(xi) That the Governmental Agency shall not issue any bonds, notes or other obligations payable from the revenues of the System unless it has received the written consent of the Authority and the Council.

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 Notes shall be approved without qualification by recognized bond counsel acceptable to the Authority in substantially the form of legal opinion attached hereto as Exhibit A.

4.2 The principal of and interest, if any, on the Loan shall be repaid by the Governmental Agency on the days and in the years as provided in Schedule X and Schedule Y attached hereto.

4.3 The Loan shall bear interest, if any, from the dates and at the rate or rates per annum set forth on Schedule X hereto. In no event shall the interest rate on or the net interest cost of the Notes exceed any statutory limitation with regard thereto.

4.4 The Notes 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 Notes may be issued in one or more series, as reflected by Schedule X hereto.

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.

5.2 In the event the Governmental Agency defaults in any payment to the Authority, the amount of such default shall bear interest at the annual rate of 3% on the installment of the Loan next due, from the date of the default until the date of the payment thereof, unless waived by the Authority.

5.3 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under the Act and State law, including without limitation the right to an appointment of a receiver.

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby warrants and represents that all information provided to the Authority and the Council in this Loan Agreement, in the Application or in any other application or documentation with respect to financing the costs of 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 Notes, the Authority and the Council shall have the right to cancel all or any of their obligations under this Loan Agreement if (a) any representation made to the Authority and the Council by the Governmental Agency in connection with the Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of this Loan Agreement.

6.2 The Governmental Agency hereby covenants that it will rebate any amounts required by Section 148 of the Code, if applicable, 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 Notes.

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

6.4 The Governmental Agency hereby agrees to give the Authority and the Council prior written notice of the issuance by it of any other obligations to be used to pay costs of 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.

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 and the provisions of the Note.

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 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 Notes 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 or such later date as is agreed to in writing by the Council if the Governmental Agency has failed to deliver the Notes to the Authority;

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

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

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

LUBECK PUBLIC SERVICE DISTRICT

(SEAL)

By: _____
Its: Chairperson
Date: February 25, 2010

Attest:

By: _____
Its: Secretary

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

(SEAL)

By: _____
Its: Director
Date: February 25, 2010

Attest:

By: _____
Its: Secretary-Treasurer

{C1680130.1}

EXHIBIT A

OPINION OF BOND COUNSEL FOR GOVERNMENTAL AGENCY

[To Be Dated as of Date of Loan Closing]

West Virginia Infrastructure and
Jobs Development Council
180 Association Drive
Charleston, West Virginia 25311

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Ladies and Gentlemen:

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

We have examined a certified copy of proceedings and other papers relating to the authorization of (i) a loan agreement dated _____, ____, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the Governmental Agency and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the issue of a series of notes of the Governmental Agency, dated _____, ____ (the "Notes"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Notes are issued in the principal amount of $_____, in the form of one note, fully registered as to principal to the Authority, with no interest, and the entire outstanding principal of the Notes shall be payable on _____, ____, as set forth in Schedule Y incorporated in and made a part of the Notes.

The Notes are issued for the purposes of (i) _____, and (ii) paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of _____ of the Code of West Virginia, 1931, as amended (the "Local

Statute"), and the note _____duly adopted or enacted by the Governmental Agency on _____(the "Local Act"), pursuant to and under which Local Statute and Local Act the Notes are authorized and issued, and the Loan Agreement that has been undertaken. The Notes are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Local Act and the Loan Agreement.

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

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

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

3. The Governmental Agency is a duly organized and validly existing _____, with full power and authority to construct and acquire the Project and to operate and maintain the System, to adopt or enact the Local Act and to issue and sell the Notes, all under the Local Statute and other applicable provisions of law.

4. The Local Act and all other necessary orders and resolutions have been legally and effectively adopted or enacted by the Governmental Agency and constitute valid and binding obligations of the Governmental Agency, enforceable against the Governmental Agency in accordance with their terms. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Notes have been duly authorized, issued, executed and delivered by the Governmental Agency to the Authority and are valid and legally enforceable special obligations of the Governmental Agency, payable from and secured by a first lien on the proceeds of any grants received by the Governmental Agency for the System, proceeds of any revenue bonds, refunding bonds, bond anticipation notes or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes, all in accordance with the terms of the Notes and the Local Act.

6. [If required, the Notes 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 Notes 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 Notes 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 Note numbered R-1, and in our opinion the form of said Note and its execution and authentication are regular and proper.

Very truly yours,

SCHEDULE X

DESCRIPTION OF NOTES

Principal Amount of Notes $4,141,959
Purchase Price of Notes $4,141,959

The Notes shall bear no interest. The principal of the Notes shall be payable in full on March 1, 2015, with annual installments on June 1 in the years shown on Schedule Y.

The Governmental Agency shall submit its payments to the Commission which will make payment to the Authority at such address as is given to the Commission in writing by the Authority.

The Notes are fully registered in the name of the Authority as to principal and the Notes shall grant the Authority a first lien on the proceeds of any grants for the System, and/or proceeds of any revenue bonds, refunding bonds, bond anticipation notes or other obligations of the Governmental Agency, issued subsequent to the issuance of the Notes.

The Governmental Agency may prepay the Notes in part or in whole at any time at the price of par but only with the Council's written consent. The Governmental Agency shall prepay the Notes from the proceeds of any permanent financing it obtains for the Project. The Governmental Agency shall request approval from the Authority and Council in writing of any proposed debt which will be issued by the Governmental Agency, which written request must be filed at least 60 days prior to the intended date of issuance.

SCHEDULE Y

DEBT SERVICE SCHEDULE

$4,141,959

0% Interest

Payment Date	Principal Due	Interest	Total
June 1, 2010	$100		
June 1, 2011	$100		
June 1, 2012	$100		
June 1, 2013	$100		
June 1, 2014	$100		
March 1, 2015	$4,141,459	0%	$4,141,959

LUBECK PUBLIC SERVICE DISTRICT

Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), and Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund)

BOND AND NOTE RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,136,720 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN $4,141,959 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010 (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

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

A. Lubeck Public Service District (the "Issuer") is a public service district, a public corporation and political subdivision of the State of West Virginia in Wood County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, for the health, safety, advantage, convenience and welfare of the inhabitants of the Issuer, the Issuer has heretofore acquired and constructed certain improvements and extensions to the existing public sewerage system of the Issuer, consisting of approximately 40 miles of sewer collection lines and a 1.5 million gallons per day wastewater treatment plant, together with all appurtenant facilities (collectively, the "Project") (the existing public sewerage facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers and filed with the Issuer.

C. The Issuer has heretofore temporarily financed a portion of the costs of the acquisition and construction of the Project through the issuance of its Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), dated September 27, 2005, in the original aggregate principal amount of $6,278,679, of which $6,278,279 is presently outstanding (the "Prior Notes").

D. Pursuant to the Act, the Issuer is authorized and empowered to issue refunding revenue bonds for the purpose of refunding, retiring or refinancing the Prior Notes. The Issuer hereby determines that it is necessary and desirable to refund the Prior Notes.

E. The Issuer intends to refund the Prior Notes through the issuance of its revenue bonds and notes to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Infrastructure Fund (the "Infrastructure Fund") for the West Virginia Infrastructure and Jobs Development Council (the "Council").

F. It is deemed necessary for the Issuer to issue its (i) Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $2,136,720 (the "Series 2010 A Bonds"); and (ii) Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $4,141,959 (the "Series 2010 Notes" or the "Notes"), to refund the Prior Notes and pay all costs relating thereto. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2010 A Bonds prior to and during acquisition and construction of the Project and for a period not exceeding six (6) months after

completion of acquisition and construction of the Project; amounts which may be deposited in the respective Reserve Accounts (as hereinafter defined); costs of refunding the Prior Notes; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2010 A Bonds and the Series 2010 Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the cost of acquisition and construction of the Project, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2010 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

G. The period of usefulness of the System after the refunding of the Prior Notes is not less than 40 years.

H. It is in the best interests of the Issuer that the Series 2010 A Bonds and the Series 2010 Notes be sold to the Authority pursuant to the terms and provisions of the respective loan agreements by and between the Issuer and the Authority, on behalf of the Council, in forms satisfactory to the Issuer, the Authority and the Council (collectively, the "Loan Agreements"), all of which are approved hereby if not previously approved by resolution of the Issuer.

I. Upon the refunding of the Prior Notes, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2010 A Bonds as to liens, pledge and source of and security for payment, being the Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated March 9, 1999, issued in the original aggregate principal amount of $7,950,000 (the "Series 1999 A Bonds"); Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), dated March 9, 1999, issued in the original aggregate principal amount of $2,000,000 (the "Series 1999 B Bonds"); Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of $7,879,443 (the "Series 2005 A Bonds"); and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of $2,411,178 (the "Series 2005 B Bonds") (collectively, the "Prior Bonds").

Prior to the issuance of the Series 2010 A Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity

tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2010 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolution.

The Series 2010 Notes shall be issued junior and subordinate to the Prior Bonds and the Series 2010 A Bonds as to liens, pledge and source of and security for payment.

J. The estimated revenues to be derived in each year following the refunding of the Prior Notes from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest on the Series 2010 A Bonds and the Prior Bonds, and all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

K. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2010 A Bonds and the Series 2010 Notes, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the financing hereof by the Council and the approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2010 A Bonds and the Series 2010 Notes or such final order will not be subject to appeal or rehearing.

L. The Project has been approved by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2010 A Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2010 A Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

In consideration of the acceptance of the Series 2010 Notes by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2010 Notes, all which shall be of equal rank and without preference, priority or distinction between any one Note of a series and any other Notes of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

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

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2010 A Bonds and the Series 2010 Notes, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any temporary Chairperson duly selected by the Governing Body.

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

"Bond Registrar" means the bank or other entity to be designated as such for the Series 2010 A Bonds in the Supplemental Resolution and its successors and assigns.

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

"Bonds" means, collectively, the Series 2010 A Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

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

"Closing Date" means the date upon which there is an exchange of the Series 2010 A Bonds and the Series 2010 Notes for the Prior Notes.

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

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

"Consulting Engineers" means Burgess & Niple, Inc., Parkersburg, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended.

"Costs" or "Costs of the Project" means those costs described in Section 1.02F hereof to be a part of the cost of refunding the Prior Notes.

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

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

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

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

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

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

"Grants" means all monies received by the Issuer on account of any Grant or Grants for the Project.

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

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

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

"Investment Property" means

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

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

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

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

"Issuer" means Lubeck Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Wood County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreements" or "Loan Agreement" means, collectively or individually, the Loan Agreements for each series of the Series 2010 A Bonds and the Series 2010 Notes by and between the Issuer and the Authority, on behalf of the Council, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Series 2010 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the respective Series 2010 A Bonds Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 2010 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

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

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

"Note Registrar" means the bank or other entity to be designated as such for the Series 2010 Notes in the Supplemental Resolution and its successors and assigns.

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

"Outstanding," when used with reference to Bonds or Notes and as of any particular date, describes all Bonds or Notes theretofore and thereupon being authenticated and delivered, except (i) any Bond or Note cancelled by the Registrar at or prior to said date; (ii) any Bond or Note for the payment of which monies, 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 or Note deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Registered Owners, any Bond or Note registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or other entity designated as such for the Series 2010 A Bonds and the Series 2010 Notes in the Supplemental Resolution with the written consent of the Authority and the Council.

"Prior Bonds" means collectively, the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), as described in Section 1.02I hereof.

"Prior Notes" means the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), as described in Section 1.02C hereof.

"Prior Resolution" means the resolutions adopted by the Issuer on February 25, 1999, and September 22, 2005, as supplemented by supplemental resolutions of the Issuer, authorizing the issuance of the Prior Bonds.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

"Project" means the Project as described in Section 1.02B hereof.

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

"PSC Order" means, collectively, the final order or orders of the PSC, approving the refunding of the Prior Notes through the issuance of the Series 2010 A Bonds and the Series 2010 Notes and the rates of the System.

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

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

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

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

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

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

(g) Repurchase agreements or similar banking arrangements, fully secured by investments of the types described in paragraphs (a) through (e) above or fully insured by the FDIC, with member banks of the Federal Reserve system or banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments

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

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6C of the Code of West Virginia,1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Note, means the person in whose name such Bond or Note is registered.

"Registrar" means the Bond Registrar or the Note Registrar, designated in the Supplemental Resolution.

"Regulations" means temporary and permanent regulations promulgated under the Code or any predecessor to the Code.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolution and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2010 A Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts for the Series 2010 A Bonds and the Prior Bonds.

"Revenue Fund" means the Revenue Fund previously established by the Prior Resolution and continued hereby.

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

"Series 2010 A Bonds" means the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2010 A Bonds Reserve Account" means the Series 2010 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2010 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2010 A Bonds in the then current or any succeeding year.

"Series 2010 A Bonds Sinking Fund" means the Series 2010 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2010 Notes" or the "Notes" means the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2010 Notes Payment Fund" means the Series 2010 Notes Payment Fund established by Section 4.12 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 2010 A Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2010 A Bonds and the Series 2010 Notes; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2010 A Bonds or the Series 2010 Notes, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Prior Bonds, the Series 2010 A Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means the complete public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and all sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage system; and shall also include

any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the sewerage system from any sources whatsoever.

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

"West Virginia Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date adopted hereof.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

ARTICLE II

AUTHORIZATION OF REFUNDING OF PRIOR NOTES

Section 2.01. Authorization of Refunding of Prior Notes. There is hereby authorized and ordered the refunding of all the Prior Notes Outstanding on the Closing Date, through the exchange of the Prior Notes with the Series 2010 A Bonds and the Series 2010 Notes. Upon the refunding of the Prior Notes, the pledge of funds in favor of the Registered Owners of the Prior Notes imposed by the Prior Resolution and the monies in the funds and accounts created by the Prior Resolution pledged to the payment of the Prior Notes are hereby ordered terminated, discharged and released.

ARTICLE III

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

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2010 A Bonds, refunding the Prior Notes, funding the reserve accounts for the Series 2010 A Bonds, and paying certain costs of issuance of the Series 2010 A Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2010 A Bonds of the Issuer. The Series 2010 A Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund)," in an aggregate principal amount of not more than $2,136,720, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2010 A Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the respective Loan Agreements. The Series 2010 A Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2010 A Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the respective Series 2010 A Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each respective series of Series 2010 A Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2010 A Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2010 A Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2010 A Bonds shall cease to be such officer of the Issuer before the Series 2010 A Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2010 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2010 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2010 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2010 A Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner, in accepting the Series 2010 A Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2010 A Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered 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 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate, register and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds Not to be Indebtedness of the Issuer. The Series 2010 A Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Registered Owner of the Series 2010 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 A Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2010 A Bonds shall be

secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2010 A Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation and the Prior Resolutions, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2010 A Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2010 A Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate, register and deliver the Series 2010 A Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the respective Series 2010 A Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2010 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this __ day of _____, 2010, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 _____ DOLLARS ($_____), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2010.

This Bond is issued to pay a portion of the refunding of the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of

West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2010, and a Supplemental Resolution duly adopted by the Issuer on _____, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,879,443; AND (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 21005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,411,178 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series

2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

All monies received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2010.

_____,
as Registrar

_____
Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreements. The Loan Agreement for the Series 2010 A Bonds, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2010 A Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. Filing of Amended Schedule. The Issuer will file with the Council and the Authority a schedule for the Series 2010 A Bonds and the Series 2010 Notes, the form of which will be provided by the Council, setting forth the sources and uses of funds therefor.

ARTICLE IV

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

Section 4.01. Authorization of Notes. For the purposes of refunding the Prior Notes and paying certain costs of issuance of the Notes and related costs, there shall be and hereby are authorized to be issued negotiable Notes of the Issuer. The Notes shall be issued as a single note, designated "Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund)," in the aggregate principal amount of not more than $4,141,959, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 4.02. Terms of Notes. The Notes shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Loan Agreement. The Notes shall be payable as to principal at the principal office of the Paying Agent, in any coin or currency which, on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America (US Dollars $).

Unless otherwise provided in the Supplemental Resolution, the Notes shall be issued in the form of a single note, fully registered to the Authority, all as provided in the Loan Agreement and the Supplemental Resolution. The Notes shall be exchangeable at the option and expense of the Registered Owner for other fully registered Notes in aggregate principal amount equal to the amount of said Notes then Outstanding, with a maturity corresponding to the dates of maturity of the Notes; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 4.03. Execution of Notes. The Notes shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Notes shall cease to be such officer of the Issuer before the Notes so signed and sealed have been sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of the Notes, shall hold the

proper office in the Issuer, although at the date of the Notes such person may not have held such office or may not have been so authorized.

Section 4.04. Authentication and Registration. No Note 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 Note, substantially in the form set forth in Section 4.10, shall have been duly manually executed by the Notes Registrar. Any such executed Certificate of Authentication and Registration upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Note shall be deemed to have been executed by the Notes Registrar if manually signed by an authorized officer of the Notes Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all the Notes issued hereunder.

Section 4.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner, in accepting any of the Notes shall be conclusively deemed to have agreed that such Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner shall further be conclusively deemed to have agreed that such Notes shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Notes remain Outstanding, the Issuer, through the Notes Registrar as its agent, shall keep and maintain books for the registration and transfer of the Notes.

The registered Notes shall be transferable only upon the books of the Notes 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 Notes Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Notes or transferring the Notes is exercised, the Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be canceled by the Notes Registrar. For every such exchange or transfer of Notes, the Notes 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 Note upon each exchange or transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

Section 4.06. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Notes Registrar shall, if so advised by the Issuer, authenticate, register and deliver a new Note of the same series and of like tenor as the Notes so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note, upon surrender and cancellation of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Notes Registrar may incur. All Notes so surrendered shall be canceled by the Notes Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen, or destroyed, without surrender therefor.

Section 4.07. Pledge of Security for the Notes. The Notes shall be payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of the Notes.

Section 4.08. Notes Not to be Indebtedness of Issuer. The Notes shall be special obligations of the Issuer, payable solely from the sources set forth in Section 4.07 hereof. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Registered Owner of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues.

Section 4.09. Covenants of Resolution Applicable to Notes. All covenants and restrictions contained in the Resolution, where appropriate and to the extent required by the Council, the Authority or the Loan Agreement for the Notes, are recognized and agreed by the Issuer to be applicable to the Notes.

Section 4.10. Form of Notes. The text of the Notes shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and

desirable and authorized or permitted hereby or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF NOTE)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM BOND ANTICIPATION NOTE, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this _____ day of _____, 2010, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia, in Wood 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 _____ DOLLARS ($_____), in annual installments of One Hundred Dollars ($100) on June 1, 2010, June 1, 2011, June 1, 2012, June 1, 2013, and June 1, 2014, and with the entire outstanding principal amount payable in full on March 1, 2015.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof 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 Note may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council") and under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated _____, 2010, between the Issuer and the Authority, on behalf of the Council.

This Note is issued to pay a portion of the refunding of the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes") and to pay certain costs of issuance hereof and related costs. This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2010, and a Supplemental Resolution

duly adopted by the Issuer on _____, 2010 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof.

THIS NOTE IS ISSUED JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 21005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,411,178; and (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2010, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of this Note. Money from these sources shall be deposited in the Series 2010 Notes Payment Fund established under the Resolution for the prompt payment of this Note.

This Note does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Resolution. Remedies provided the Authority are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Note is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, 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 Note, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the costs of refunding the Prior Notes and costs of issuance hereof as described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Note.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Note do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

All provisions of the Resolution and the statutes under which this Note is issued shall be deemed to be a part of the contract evidenced by this Note, to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated as of the date first written above.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes 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: _____, 2010

_____,
as Registrar

_____
Authorized Officer

ASSIGNMENT

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

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

Section 4.11. Sale of Notes; Approval and Ratification of Execution of Loan Agreement. The Loan Agreement for the Series 2010 Notes, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2010 Notes shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 4.12. Establishment of Notes Payment Fund. There is hereby created and established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Series 2010 Notes Payment Fund as set forth in Section 5.02 hereof. Upon receipt of proceeds of any grants for the System, any sewerage system revenue bonds or refunding revenue bonds of the Issuer, or any additional bond anticipation notes which the Issuer may issue upon maturity of the Notes, an amount of the proceeds of such grants, revenue bonds or bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes shall be deposited in the Series 2010 Notes Payment Fund. All moneys so deposited in the Series 2010 Notes Payment Fund shall be immediately paid by the Commission to the Authority in full or partial payment of the outstanding principal of the Notes. All moneys deposited in the Series 2010 Notes Payment Fund shall be held in trust for the Authority, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Series 2010 Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 4.13. Prohibition of Other Debt. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by the System or the proceeds of any grants, revenue bonds or bond anticipation notes for the System, shall be issued by the Issuer without the prior written consent of the Authority and the Council.

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolution) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

(1) Revenue Fund (established by the Prior Resolution); and

(2) Renewal and Replacement Fund (established by the Prior Resolution).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

(1) Series 2010 A Bonds Sinking Fund;

(2) Series 2010 A Bonds Reserve Account; and

(3) Series 2010 Notes Payment Fund.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

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

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Sinking Funds for the Prior Bonds, the amounts required to pay principal of the Prior Bonds as required by the Prior Resolution; and (ii) commencing 3 months prior to the first date of

payment of principal of the Series 2010 A Bonds, for deposit in the Series 2010 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2010 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2010 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, (i) on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Reserve Accounts for the Prior Bonds, the amounts required by the Prior Resolution to be deposited therein; and (ii) on the first day of each month, commencing June 1, 2010, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2010 A Bonds Reserve Account, an amount equal to 1/120th of the Series 2010 A Bonds Reserve Requirement, until the amount in the Series 2010 A Bonds Reserve Account equals the Series 2010 A Bonds Reserve Requirement; provided that, no further payments shall be made into the respective Series 2010 A Bonds Reserve Accounts when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Series 2010 A Bonds Reserve Requirement. In the event any amount is withdrawn from any of the Series 2010 A Bonds Reserve Account, the Issuer shall transfer from the Revenue Fund and restore the deficient Series 2010 A Bonds Reserve Account to an amount equal to the Series 2010 A Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank, for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Resolution and not in addition thereto), exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2010 A Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2010 A Bonds as the same shall become due. Monies in the Series 2010 A Bonds Reserve Account shall be used only

for the purposes of paying principal of and interest, if any, on the Series 2010 A Bonds as the same shall come due, when other monies in the Series 2010 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2010 A Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2010 A Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements thereof, shall be restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2010 A Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the respective Series 2010 A Bonds Sinking Funds or the respective Series 2010 A Bonds Reserve Accounts therein when the aggregate amount of funds therein are at least equal to the aggregate principal amount of the Series 2010 A Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2010 A Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the respective Series 2010 A Bonds Sinking Funds and the respective Series 2010 A Bonds Reserve Accounts created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into the Series 2010 A Bonds Sinking Funds and the respective Series 2010 A Bonds Reserve Accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the respective Series 2010 A Bonds Sinking Funds and the respective Series 2010 A Bonds Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2010 A Bonds under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the Series 2010 A Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreements, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of each calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as such parties shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The monies in excess of the maximum amounts insured by FDIC in any of the funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

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

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

ARTICLE VI

EXCHANGE OF BONDS AND NOTES FOR PRIOR NOTES

Section 6.01. Exchange of Bonds and Notes for Prior Notes. On the Closing Date, the Issuer shall deliver the Series 2010 A Bonds and the Series 2010 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2010 A Bonds and the Series 2010 Notes. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owners of the Series 2010 A Bonds and the Series 2010 Notes as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2010 A Bonds and the Series 2010 Notes or the interest, if any, thereon are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2010 A Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of the Series 2010 A Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2010 A Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2010 A Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2010 A Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreements. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2010 A Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in

the Bond Legislation and in compliance with the Loan Agreements. In the event the schedule of rates and charges initially established for the System in connection with the Series 2010 A Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Resolution. Additionally, so long as the Series 2010 A Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the respective Series 2010 A Bonds Sinking Fund, and, with the written permission of the Authority and the Council, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the respective Series 2010 A Bonds. Any balance remaining after the payment of the respective Series 2010 A Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers 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 shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Registered Owners, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2010 A Bonds. All obligations issued by the Issuer after the issuance of the Series 2010 A Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2010 A Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2010 A Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2010 A Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2010 A Bonds pursuant to this Bond Legislation,

except with the prior written consent of the Authority and the Council under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2010 A Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, acquisition, or construction of extensions and improvements to the System or refunding any outstanding Bonds, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues 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 3 succeeding years after the issuance of such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds then Outstanding;

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

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

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the

System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Registered Owners of the Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2010 A Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2010 A Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the cost of designing, acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the Council such documents and information as it may reasonably require in connection with the design, acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof, or if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council, the Authority, or any other original purchaser of the Series 2010 A Bonds, and shall mail in each year to any Registered Owner of the Series 2010 A Bonds, requesting the same, an annual report containing the following:

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

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2010 A Bonds, and shall submit said report to the Council and the Authority, or any other original purchaser of the Series 2010 A

Bonds. Such audit report submitted to the Council and the Authority shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreements and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Council and the Authority, or their agents and representatives, to enter and inspect the Project site and facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Council and the Authority, or their agents and representatives, with access to the System site and facilities, as may be reasonably necessary to accomplish all of the powers and rights of the Council and the Authority with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2010 A Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2010 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 A Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit in the respective Series 2010 A Bonds

Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2010 A Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2010 A Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2010 A Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Council and the Authority within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Council and the Authority and to any Registered Owner of the Series 2010 A Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Council and the Authority and to any Registered Owner of the Series 2010 A Bonds, or anyone acting for and on behalf of such Registered Owner.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreements, and forward a copy of such report to the Council and the Authority by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreements, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Council and the Authority, the Project is adequate for the purposes for which it was designed, the funding

plan as submitted to the Council and the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

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

The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreements.

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 Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System 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. If the water facilities are not owned by the Issuer, the Issuer will use diligent efforts to enter into a termination agreement with the provider of such water, subject to any required approval of such agreement by the PSC and all its rules, regulations and orders.

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. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2010 A Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreements, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to

protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Council and the Authority. In the event the Loan Agreements so require, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.17. Completion of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2010 A Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved.]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2010 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series

2010 A Bonds, provided however, that the statutory mortgage lien of the Series 2010 A Bonds shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.20. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all the terms, conditions and requirements of the Loan Agreements and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the Council with copies of all documents submitted to the Authority.

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

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS

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

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies 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 shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2010 A Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2010 A Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2010 A Bonds as a condition to issuance of the Series 2010 A Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2010 A Bonds as may be necessary in order to maintain the status of the Series 2010 A Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer

to be taken, any action with respect to the Issuer's use of the proceeds of the Series 2010 A Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2010 A Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2010 A Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2010 A Bonds and the Series 2010 Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2010 A Bonds or the Series 2010 Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2010 A Bonds or the Series 2010 Notes set forth in this Bond Legislation, any supplemental resolution or in the Series 2010 A Bonds or the Series 2010 Notes, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or a Registered Owner; or

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

(4) If default occurs with respect to the Prior Bonds or the Prior Resolutions.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2010 A Bonds or the Series 2010 Notes may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2010 A Bonds or the Series 2010 Notes, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2010 A Bonds or the Series 2010 Notes, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2010 A Bonds or the Series 2010 Notes, or the rights of such Registered Owners; provided that, all rights and remedies of the
Registered Owners of the Series 2010 A Bonds shall be on a parity with the of the Registered Owners of the Prior Bonds and provided further that, all rights and remedies of the Registered Owners of the Series 2010 Notes shall be junior and subordinate to the Registered Owners of the Prior Bonds and the Series 2010 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Series 2010 Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Series 2010 A Bonds, any Registered Owner of a Series 2010 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 Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Series 2010 A Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of 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 exercise.

Whenever all that is due upon the Series 2010 A Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered

Owners of the Series 2010 A Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Series 2010 A Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of 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

PAYMENT OF BONDS AND NOTES

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2010 A Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2010 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2010 A Bonds from gross income for federal income tax purposes.

Section 10.02. Payment of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2010 Notes, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of proceeds from any additional sewerage system revenue bonds or refunding revenue bonds, any additional bond anticipation notes or any additional grants pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2010 Notes shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2010 Notes from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2010 A Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2010 A Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2010 A Bonds shall be made without the consent in writing of the Registered Owners of the Series 2010 A Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2010 A Bonds or the rate of interest, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein respectively pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2010 A Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2010 A Bonds from gross income of the Registered Owner thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2010 A Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, the Series 2010 A Bonds or the Series 2010 Notes.

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, or parts thereof, in conflict with the provisions of this Resolution are, to the

extent of such conflict, hereby repealed; provided that, in the event of any conflict between this Bond Legislation 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 at 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 Chairman, 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 11th day of February, 2010.

Chairperson

Member

Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 11th day of February, 2010.

Dated this 25th day of February, 2010.

[SEAL]

Secretary

LUBECK PUBLIC SERVICE DISTRICT 2.5
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND) AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010 (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO SUCH BONDS AND NOTES; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND NOTES.

WHEREAS, the Public Service Board (the "Governing Body") of Lubeck Public Service District (the "Issuer") has duly and officially adopted a Resolution on February 11, 2010 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $2,136,720 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN $4,141,959 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010 (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL

DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) and the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, in the respective aggregate principal amounts not to exceed $2,136,720 and $4,141,959 (collectively, the "Bonds" and the "Notes" or individually, the "Series 2010 A Bonds" and the "Series 2010 Notes"), and has authorized the execution and delivery of loan agreements relating to the Bonds and the Notes, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes should be established by a supplemental resolution, and that other matters relating to the Bonds and the Notes be therein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

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

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and the Notes be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LUBECK PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds and notes of the Issuer:

A. Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $2,136,720. The Series 2010 A Bonds shall be dated the date of delivery, shall finally mature March 1, 2039, and shall bear no interest. The principal of the Series 2010 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2010 A Bonds. The Series 2010 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2010 A Bonds.

B. Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single note, numbered R-1, in the original principal amount of $4,141,959. The Notes shall be dated the date of delivery, shall finally mature March 1, 2015, and shall bear no interest. The principal of the Notes shall be payable in annual installments of One Hundred Dollars ($100) on June 1, 2010, June 1, 2011, June 1, 2012, June 1, 2013, and June 1, 2014, and with the entire outstanding principal amount payable in full on March 1, 2015, as set forth in the Notes and the Schedule Y attached to the Loan Agreement. The Notes shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Notes.

Section 2. All other provisions relating to the Bonds and the Notes and the text of the Bonds and the Notes shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairperson and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all

covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Bonds and the Notes shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds and the Notes under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds and the Notes, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds and the Notes under the Resolution.

Section 6. The Issuer hereby appoints and designates United Bank, Inc., Parkersburg, West Virginia, to serve as the Depository Bank under the Resolution.

Section 7. On the Closing Date, the Issuer shall deliver the Series 2010 A Bonds and the Series 2010 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

Section 8. The Issuer shall set aside $89,180 to fund the Debt Service Reserve Account and to pay costs of issuance of the Bonds and the Notes.

Section 9. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds and the Notes hereby and by the Resolution approved and provided for, to the end that the Bonds and the Notes may be delivered to the Authority pursuant to the Loan Agreement on or about February 25, 2010.

Section 10. The refunding of the Prior Notes and the financing thereof with proceeds of the Bonds and the Notes are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

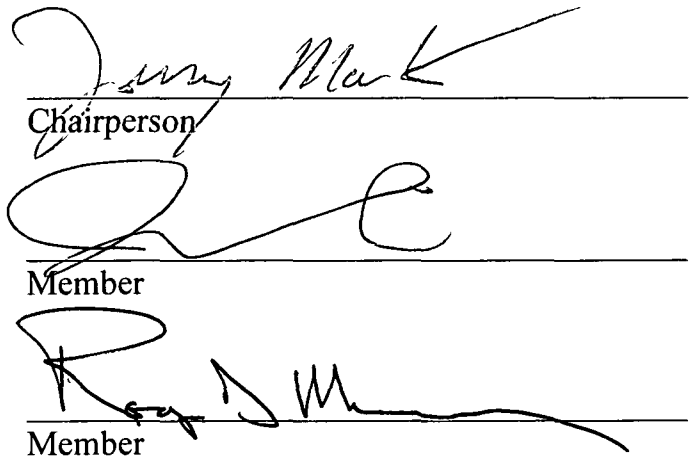
Section 11. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such

money market accounts until further directed in writing by the Issuer. Moneys in the Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 11th day of February, 2010.



Chairperson

Member

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 11th day of February, 2010.

Dated this 25th day of February, 2010.

[SEAL]

Secretary

LUBECK PUBLIC SERVICE DISTRICT

February 11, 2010 7:00 PM

Jerry R. Martin, Chairman
Roger D. Martin, Treasurer
John H. Sines, Secretary

Attending: Jerry Martin, Roger Martin, John Sines, Jim Cox, Richard Hayhurst, Samme Gee, Phil Postlewait, Bill Argabrite, Judy Boston, Ed Robinson, Gary Brode, Linda Sines John Penzcak

			Sewer	Water
NO. OF CUSTOMERS:	Section	1 Lake Washington Road	320	517
		2 Lubeck	340	446
		3 Riverhill - Blenn. Heights	281	396
		4 DuPont Road	294	315
		5 Larkmead Road	118	368
		6 LMH - Homewood Road	0	319
		7 Washington Bottom	300	398
		8 New England Ridge	183	334
		9 Lubeck South	207	336
		10 Larkmead Area - Marrtown	73	361
		11 Route 68 South - Hopewell	0	257
		12 Mitchell's	93	99
		13 Westover& Wakefield II	29	31
		Total Customers	2,238	4,177

TREASURER'S REPORT:

Revenue Fund WV Central	$11,244.96
Operations & Maintenance Fund	$1,901.44
RUS Construction Account	$0.00
IJDC Construction Account	$0.00
United Bank Investment Fund	$0.00
Transfer From Revenue to Operation & Maintenance Checking Account	$37,650.00
Transfer From Revenue to O & M Checking Account	$0.00
Transfer From Revenue to O & M Checking Account	$0.00
Transfer From Revenue to United Bank Investment	$0.00
Transfer From Revenue to Operation & Maintenance Checking Account	$0.00

The following transfers were made to cover payroll & bills since the last Board meeting:

Transfer From Revenue to Operation & Maintenance Checking	$17,000.00
Transfer From Revenue to WesBanco Tax Account	$6,182.28
Transfer From Revenue to Operation & Maintenance Checking	$0.00
Transfer From Revenue to W esBanco Tax Account	$0.00
Transfer From Revenue to Operation & Maintenance Checking	$0.00

BUSINESS: Prayer by Jerry Martin. Pledge followed.

A) Moved by John Sines, seconded by Roger Martin that the minutes of the Board meeting of January 28, 2010 be approved. Passed unanimously.

B) Moved by John Sines, seconded by Roger Martin that the District adopt the Resolution for the conversion of the 2005 Bond Anticipation Notes. Passed unanimously.

B) Moved by John Sines, seconded by Roger Martin that the District adopt the Supplemental Resolution for the conversion of the 2005 Bond Anticipation Notes. Passed unanimously.

D) Moved by John Sines, seconded by Roger Martin that the District adopt the Sweep Resolution for the Municipal Bond Commission. Passed unanimously.

DISCUSSION OF DISTRICT HAPPENINGS:

It was reported what has been going on in the District:

A) Installed 0 water taps since the last Board meeting. There are 0 water taps to be installed. This gives us 1 water tap for 2010. The District has installed 0 sewer taps since the last Board meeting. There are 0 sewer taps to be installed. This gives us 0 sewer taps for 2010.

B) Cleaned ½ of the clearwell at the water plant.

C) Continuing to locate water valves.

D) Did turn offs and turn ons.

E) Repaired 0 main line and 2 service line leaks.

F) Completed work orders, set meters, etc.

It was reported what Bill and Rod have been working on:

A) January Water Pumped to System: 25,392,500 Gallons
Homewood Booster Station: 2,241,872 Gallons
New England Booster Station: 1,631,438 Gallons
High Water Usage and Day: 1,088,400 on 01/26

Low Water Usage and Day: 585,500 on 01/09

Lost 150,000 gallon due to 8" main break.

GENERAL BUSINESS:

A) Moved by Roger Martin, seconded by John Sines that all bills be approved as reviewed by management and the Board, in addition to all fund transfers as presented. Passed unanimously.

B) Lake Washington Club Sewer Project – Mr. Robinson was here to report that the DEP has accepted the public meeting information and is working on final reviews.

C) The District is filing our case with the Public Service Commission for the Wadesville Water Project.

D) Ball School Road Water Project – Delegate Poling called me on Thursday and told me that the Governor had approved $58,000 for the project. We just now have to wait until he announces the award and see what conditions are attached thereto.

E) Corp of Engineers work at the well field. They are continuing to build the stone wall.

F) Moved by John Sines, seconded by Roger Martin that the District make note that People's News is not acting as the District's agent for remittance and that customers using People's News, or any other mechanism other than the established and approved methods of payment are at the customer's own risk. Passed unanimously.

G) Unfinished business.

H) Moved by John Sines, seconded by Roger Martin that the District adjourn the meeting. Passed unanimously.

APPROVED ATTESTED

LUBECK PUBLIC SERVICE DISTRICT
POST OFFICE BOX 700
301 OX JOHNSON LANE
WASHINGTON, WEST VIRGINIA 26181
PHONE: (304) 863-3341
FAX: (304) 863-3791

February 5, 2010

BOARD MEETING

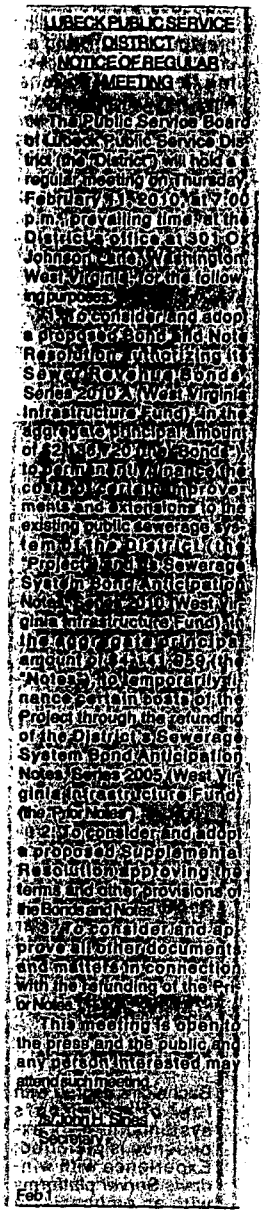
February 11, 2010

7:00 P. M.

AGENDA:

1. APPROVAL OF BOARD MEETING MINUTES
2. ACTION FOR BOND ANTICIPATION NOTE CONVERSIONS
3. DISCUSSION OF DISTRICT HAPPENINGS
4. APPROVAL OF PAYMENT OF BILLS AND TRANSFERS
5. LAKE WASHINGTON CLUB SEWER PROJECT
6. WADESVILLE WATER PROJECT
7. BALL SCHOOL ROAD WATER PROJECT
8. CORP OF ENGINEERS PROJECT
9. PEOPLES NEWS
10. UNFINISHED BUSINESS

c:	Jerry Martin	Parkersburg News
	Roger Martin	Parkersburg Sentinel
	John Sines	Wood County Commission
	Craig Richards	WNUS
	Tim Miller	WTAP
	Richard Hayhurst	WXIL
	Phil Postlewait	Jim Cox



LUBECK PUBLIC SERVICE DISTRICT
NOTICE OF REGULAR MEETING

The Public Service Board of Lubeck Public Service District (the "District") will hold a regular meeting on Thursday, February 11, 2010, at 7:00 p.m., prevailing time, at the District's office at 301 Ox Johnson Lane, Washington, West Virginia, for the following purposes:

1. To consider and adopt a proposed Bond and Note Resolution authorizing its Sewer Revenue Bonds, Series 2010A (West Virginia Infrastructure Fund), in the aggregate principal amount of $2,136,720 (the "Bonds"), to permanently finance the costs of certain improvements and extensions to the existing public sewerage system of the District (the "Project") and its Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), in the aggregate principal amount of $4,141,959 (the "Notes"), to temporarily finance certain costs of the Project through the refunding of the District's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes").

2. To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds and Notes.

3. To consider and approve all other documents and matters in connection with the refunding of the Prior Notes.

This meeting is open to the press and the public and any person interested may attend such meeting.

/s/ John H. Sines
Secretary

Feb 1

.....MARY J BUCK.....

Being first duly sworn, says that the

..."NOTICE OF REGULAR MEETING".....

.....

Hereto attached was printed in the

..XX...**The Parkersburg News and Sentinel,**

.....**The Marietta AM,**

A daily newspaper published in the City of Parkersburg, Wood County, West Virginia, for ...ONE.... **successive Week(s), the first publication and posting thereon being on the** .....1ST...**day of** ...FEBRUARY.. **2010.., and subsequent publication on the** .....

day (s) of ..... **20**.....

Printer's Fee	$.....40.30...
Notarized Signature	$.....2.00...
Additional Copy Fee	$.....
Total Due:	$.....42.30...

By: Mary J Buck

Subscribed and sworn to before me this

1st... **day of** February **20**10.

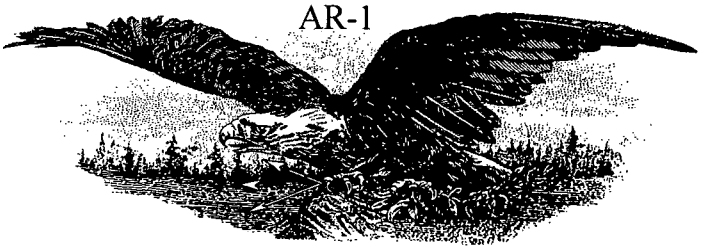
Melani Zyla
Notary Public for Wood County, West Virginia

My commission expires .....3-23-14.....

OFFICIAL SEAL
NOTARY PUBLIC, STATE OF WEST VIRGINIA
MELANI ZYLA
1629 - 19th ST, PARKERSBURG, WV 26101
MY COMMISSION EXPIRES MARCH 23, 2014

NUMBER

AR-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1 $2,136,720

KNOW ALL MEN BY THESE PRESENTS: That on this 25th day of February, 2010, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the WEST VIRGINIA WATER DEVELOPMENT AUTHORITY (the "Authority") or registered assigns, the sum of TWO MILLION ONE HUNDRED THIRTY-SIX THOUSAND SEVEN HUNDRED TWENTY DOLLARS ($2,136,720), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated February 25, 2010.

SPECIMEN

This Bond is issued to pay a portion of the refunding of the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on February 11, 2010, and a Supplemental Resolution duly adopted by the Issuer on February 11, 2010 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,879,443; AND (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 21005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,411,178 (COLLECTIVELY, THE "PRIOR BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the Prior Bonds and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2010 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, or the interest, if any, hereon, except from said special fund

provided from the Net Revenues, the monies in the Series 2010 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the Prior Bonds; provided however, that so long as there exists in the Series 2010 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the Prior Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

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

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

All monies received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

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

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

SPECIMEN

Chairperson

ATTEST:

SPECIMEN

Secretary

NUMBER

AR-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: February 25, 2010.

UNITED BANK, INC, as Registrar

SPECIMEN

Authorized Officer

NUMBER

AR-1

EXHIBIT A

DEBT SERVICE SCHEDULE

SPECIMEN

NUMBER

AR-1

SPECIMEN

Lubeck PSD

IF

0% Interest Rate

Dated Date	2/25/10
Delivery Date	2/25/10

Period Ending	Principal	Interest	Debt Service
2/25/10			
6/1/10	18,420		18,420
9/1/10	18,420		18,420
12/1/10	18,420		18,420
3/1/11	18,420		18,420
6/1/11	18,420		18,420
9/1/11	18,420		18,420
12/1/11	18,420		18,420
3/1/12	18,420		18,420
6/1/12	18,420		18,420
9/1/12	18,420		18,420
12/1/12	18,420		18,420
3/1/13	18,420		18,420
6/1/13	18,420		18,420
9/1/13	18,420		18,420
12/1/13	18,420		18,420
3/1/14	18,420		18,420
6/1/14	18,420		18,420
9/1/14	18,420		18,420
12/1/14	18,420		18,420
3/1/15	18,420		18,420
6/1/15	18,420		18,420
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12/1/16	18,420		18,420
3/1/17	18,420		18,420
6/1/17	18,420		18,420
9/1/17	18,420		18,420
12/1/17	18,420		18,420
3/1/18	18,420		18,420
6/1/18	18,420		18,420
9/1/18	18,420		18,420
12/1/18	18,420		18,420
3/1/19	18,420		18,420
6/1/19	18,420		18,420
9/1/19	18,420		18,420
12/1/19	18,420		18,420
3/1/20	18,420		18,420
6/1/20	18,420		18,420
9/1/20	18,420		18,420
12/1/20	18,420		18,420
3/1/21	18,420		18,420

NUMBER

AR-1

Lubeck PSD

IF

0% Interest Rate

SPECIMEN

Period Ending	Principal	Interest	Debt Service
6/1/21	18,420		18,420
9/1/21	18,420		18,420
12/1/21	18,420		18,420
3/1/22	18,420		18,420
6/1/22	18,420		18,420
9/1/22	18,420		18,420
12/1/22	18,420		18,420
3/1/23	18,420		18,420
6/1/23	18,420		18,420
9/1/23	18,420		18,420
12/1/23	18,420		18,420
3/1/24	18,420		18,420
6/1/24	18,420		18,420
9/1/24	18,420		18,420
12/1/24	18,420		18,420
3/1/25	18,420		18,420
6/1/25	18,420		18,420
9/1/25	18,420		18,420
12/1/25	18,420		18,420
3/1/26	18,420		18,420
6/1/26	18,420		18,420
9/1/26	18,420		18,420
12/1/26	18,420		18,420
3/1/27	18,420		18,420
6/1/27	18,420		18,420
9/1/27	18,420		18,420
12/1/27	18,420		18,420
3/1/28	18,420		18,420
6/1/28	18,420		18,420
9/1/28	18,420		18,420
12/1/28	18,420		18,420
3/1/29	18,420		18,420
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3/1/30	18,420		18,420
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9/1/30	18,420		18,420
12/1/30	18,420		18,420
3/1/31	18,420		18,420
6/1/31	18,420		18,420
9/1/31	18,420		18,420
12/1/31	18,420		18,420
3/1/32	18,420		18,420
6/1/32	18,420		18,420
9/1/32	18,420		18,420
12/1/32	18,420		18,420
3/1/33	18,420		18,420
6/1/33	18,420		18,420

NUMBER

AR-1

Lubeck PSD

IF

0% Interest Rate

SPECIMEN

Period Ending	Principal	Interest	Debt Service
9/1/33	18,420		18,420
12/1/33	18,420		18,420
3/1/34	18,420		18,420
6/1/34	18,420		18,420
9/1/34	18,420		18,420
12/1/34	18,420		18,420
3/1/35	18,420		18,420
6/1/35	18,420		18,420
9/1/35	18,420		18,420
12/1/35	18,420		18,420
3/1/36	18,420		18,420
6/1/36	18,420		18,420
9/1/36	18,420		18,420
12/1/36	18,420		18,420
3/1/37	18,420		18,420
6/1/37	18,420		18,420
9/1/37	18,420		18,420
12/1/37	18,420		18,420
3/1/38	18,420		18,420
6/1/38	18,420		18,420
9/1/38	18,420		18,420
12/1/38	18,420		18,420
3/1/39	18,420		18,420
	2,136,720		**2,136,720**

NUMBER

AR-1

ASSIGNMENT SPECIMEN

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

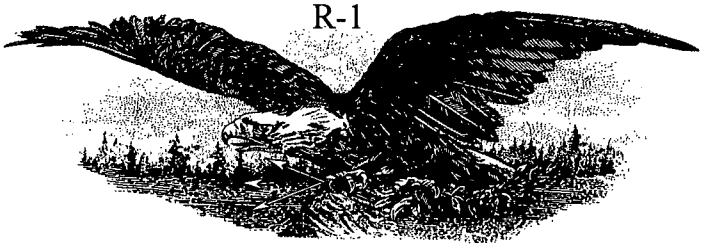
_____

In the presence of:

_____

NUMBER

R-1



SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM BOND ANTICIPATION NOTE, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1 $4,141,959

KNOW ALL MEN BY THESE PRESENTS: That on this 25th day of February, 2010, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia, in Wood 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 FOUR MILLION ONE HUNDRED FORTY-ONE THOUSAND NINE HUNDRED FIFTY-NINE DOLLARS ($4,141,959), in annual installments of One Hundred Dollars ($100) on June 1, 2010, June 1, 2011, June 1, 2012, June 1, 2013, and June 1, 2014, and with the entire outstanding principal amount payable in full on March 1, 2015.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof 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 Note may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council") and under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated February 25, 2010, between the Issuer and the Authority, on behalf of the Council.

This Note is issued to pay a portion of the refunding of the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior

Notes"). This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on February 11, 2010, and a Supplemental Resolution duly adopted by the Issuer on February 11, 2010 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof.

THIS NOTE IS ISSUED JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,879,443; (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED SEPTEMBER 27, 21005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,411,178; and (5) SEWER REVENUE BONDS, SERIES 2010 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED FEBRUARY 25, 2010, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,136,720.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of this Note. Money from these sources shall be deposited in the Series 2010 Notes Payment Fund established under the Resolution for the prompt payment of this Note.

This Note does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Resolution. Remedies provided the Authority are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Note is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note, together with a written instrument of

SPECIMEN

transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, 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 Note shall be applied solely to the payment of the costs of refunding the Prior Notes, as described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Note.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Note do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

All provisions of the Resolution and the statutes under which this Note is issued shall be deemed to be a part of the contract evidenced by this Note, to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated as of the date first written above.

[SEAL]

Chairperson

SPECIMEN

ATTEST:

Secretary

SPECIMEN

NUMBER

R-1

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes 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: February 25, 2010

UNITED BANK, INC., as Registrar

SPECIMEN

Authorized Officer

NUMBER

R-1

ASSIGNMENT

SPECIMEN

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

_____

_____

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

Dated: _____, ___.

_____

In the presence of:

_____

BOND REGISTER 2.9 (A)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$2,136,720	February 25, 2010

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Signature of Registrar:

United Bank, Inc.

Authorized Representative

NOTE REGISTER 2.9 (B)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

Bond Number	Principal Amount	Date of Bond
No. R-1	$4,141,959	February 25, 2010

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311

Signature of Registrar:

United Bank, Inc.

Authorized Representative

LUBECK PUBLIC SERVICE DISTRICT

SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A

SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B

SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999

BOND AND NOTE RESOLUTION

LUBECK PUBLIC SERVICE DISTRICT

**SEWERAGE SYSTEM REVENUE BONDS,
SERIES 1999 A AND SERIES 1999 B, AND
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999**

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BOND AND NOTE RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWERAGE SYSTEM REVENUE BONDS AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES; AUTHORIZING THE ISSUANCE OF TWO SEPARATE SERIES OF SEWERAGE SYSTEM REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF $9,950,000 AND THE ISSUANCE OF ONE OR MORE SERIES OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF $16,550,000, SUCH BONDS AND NOTES TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS AND NOTES; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

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

ARTICLE I

STATUTORY AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01. Authority of this Resolution. This Resolution is enacted pursuant to the provisions of Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter

31, Article 15A of the Code of West Virginia, 1931, as amended, and other applicable provisions of law.

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

"Act" shall mean collectively Chapter 16, Article 13A, Chapter 22C, Article 2 and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption of this Resolution.

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

"Board" 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 the enactment of this Resolution.

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

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

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

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

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

"Chairman" means the Chairman of the Board of the Issuer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Loan Agreement" or "Loan Agreements" shall mean, as appropriate, (a) the Water Pollution Control Revolving Fund Loan Agreement by and among the Authority, the DEP and the Issuer providing for the purchase of the Series 1999 A Bonds from the Issuer

by the Authority; (b) the loan agreement to be entered into between the Authority and the Issuer providing for the purchase of the Series 1999 B Bonds from the Issuer by the Authority; and/or (c) the loan agreement to be entered into between the Authority and the Issuer providing for the purchase of the Series 1999 Bond Anticipation Notes from the Issuer by the Authority.

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

"Notes" or "Series 1999 Notes" shall mean the $16,550,000 in aggregate principal amount of the Issuer's Series 1999 Bond Anticipation Notes, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

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

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

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases shall mean the $9,950,000 in aggregate principal amount of the Issuer's Sewerage System Revenue Bonds, Series 1999 Aand Series 1999 B, to be issued for the purpose of paying a portion of the Costs of the acquisition and construction of the Project and for such other purposes permitted hereby and authorized by a resolution supplemental hereto.

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

to maturity); (iii) any such Bond or Note deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or Noteholders, any such Bond or Note registered to the Issuer.

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

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

"Prior Obligations" shall mean the Issuer's 1992 Sewer Revenue Bonds in the approximate outstanding principal amount of $75,193.43; the outstanding Step I Design Loan of the Parkersburg Sanitary Board in the approximate outstanding principal amount of $10,544.41; and the Step II Design Loan of the Issuer in the approximate outstanding principal amount of $178,981.65

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

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

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

"PSC Order" means the Recommended Decision of the PSC in Case No. 98-0009-W-CN, which was entered by an Administrative Law Judge of the PSC on July 31, 1998, and which became the Final Order of the PSC on August 11, 1998, granting the Issuer a Certificate of Convenience and Necessity to construct the Project and approving the financing thereof.

"Qualified Investments" shall mean and include any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

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

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e), above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the owner of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

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

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

"Registrar" shall mean, as appropriate, the Bond Registrar, the Notes Registrar or both.

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

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

"Reserve Accounts" shall mean the Reserve Accounts created by Section 5.02(1)(a) hereof, and when preceded by a designated series of Bonds, shall mean the individual Reserve Account created for such series of Bonds.

"Reserve Requirement" shall mean, with respect to a designated series of Original Bonds and as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on such series of the Bonds in the then current or any succeeding Fiscal Year.

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

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

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

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

"SRF Loan Agreement" shall mean the Loan Agreement for the Series 1999 A Bonds.

"SRF Regulations" shall mean the regulations set forth in Title 47, Series 31 of the West Virginia Code of State Regulations.

"Secretary" means the Secretary of the Board of the Issuer.

"Series 1999 Bond Anticipation Notes Payment Fund" shall mean the fund established by Section 4.09 hereof and created in Section 5.02(3) hereof on account of the Notes.

"Series 1999 A Bonds" or "Series A Bonds" shall mean the $7,950,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 A, to be purchased by the Authority on behalf of the Fund.

"Series 1999 B Bonds" or "Series B Bonds" shall mean the $2,000,000 in aggregate principal amount of Sewerage System Revenue Bonds, Series 1999 B, to be purchased by the Authority on behalf of the Infrastructure Council.

"Series 1999 Notes Loan Agreement" shall mean the loan agreement between the Authority and the Issuer with respect to the Series 1999 Notes.

"Sinking Funds" shall mean the Sinking Funds created by Section 5.02 hereof, and when preceded by a designated series of Bonds, shall mean the individual Sinking Fund created for such series of Bonds.

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolutions authorizing the sale of the Original Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Original Bonds and not so included may be included in another Supplemental Resolution.

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

"System" shall mean the existing wastewater collection and treatment system, both within and without said Issuer, and shall include any extensions, additions, betterments and improvements thereto.

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

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

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

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

Section 1.03. Resolution Constitutes Contract. In consideration of the acceptance of the Original Bonds and Notes and any other bonds or notes authorized to be

issued hereunder by those who shall own the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders and Noteholders, and the covenants and agreements herein set forth to be performed by said Issuer shall be for the equal benefit, protection and security of the legal owners of any and all of such Bonds and Notes, all of which shall be of equal rank and without preference, priority or distinction between any one Bond or Note and any other Bond or Note by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

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

A. The Issuer is a public corporation and political subdivision of the State in Wood County of said State. The Issuer now owns and operates a public wastewater collection and treatment system furnishing service to residences, premises and businesses residing or located within the territory of the Issuer. However, the Issuer has experienced numerous environmental problems in connection with the operation of the various package wastewater treatment plants within its territory, most of which are in poor condition and in need of repair. In addition, many residences within the service territory of the Issuer are served only by private septic systems, many of which are not working well. The deficiencies in the package plants and private septic systems described above are causing extreme environmental damage and serious health concerns.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the Issuer that there be acquired and constructed the Project, generally consisting of the acquisition and construction of approximately forty miles of sanitary sewer collection lines and appurtances and a 1.5 million gallon per day wastewater treatment plant at an estimated cost of $26,500,000, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have been approved by DEP and are on file with the Issuer. The Project is generally described in Exhibit A attached hereto and incorporated by reference herein. The Project has an estimated useful life in excess of forty years.

C. The Issuer derives Net Revenues from the System. The Net Revenues are currently encumbered by two outstanding obligations. These obligations include the Issuer's 1992 Sewer Revenue Bonds in the approximate outstanding principal amount of $75,193.43; the outstanding Step I Design Loan of the Parkersburg Sanitary Board in the approximate outstanding principal amount of $10,544.41; and the Step II Design Loan of the Issuer in the approximate outstanding principal amount of $178,981.65 (collectively, the "Prior Obligations"). The Issuer deems it advisable and hereby authorizes the payment in full of the outstanding principal and interest, if any, of the Prior Obligations from the proceeds of the Series 1999 B Bonds. Other than the Prior Obligations, the Net Revenues of the System are not encumbered in any manner.

D. The Issuer intends to permanently finance a portion of the costs of acquisition and construction of the Project and to pay in full the Prior Obligations through

the issuance of its revenue bonds to the Authority. The Issuer intends to temporarily finance a portion of the costs of acquisition and construction of the Project through the issuance of bond anticipation notes to the Authority.

E. The estimated revenues to be derived in each year after the enactment of this Resolution from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on each series of Original Bonds of the Issuer and all sinking fund and other payments provided for in this Resolution.

F. It is deemed necessary for the Issuer to issue its Original Bonds in the aggregate principal amount of $9,950,000 to finance the costs of the acquisition and construction of the Project herein described through the Program and the Infrastructure Council and to finance the payment in full of the outstanding principal of and interest, if any, on the Prior Obligations. It is also deemed necessary for the Issuer to issue its Notes in the aggregate principal amount of not more than $16,550,000 to temporarily finance a portion of the costs 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; interest on the Original Bonds prior to and during construction or acquisition and for six months after completion of construction of the Project, if any; engineering, fiscal and legal expenses; expenses for estimates of cost and revenue; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise; administrative expense, any fees or expenses of the Authority, DEP and the Infrastructure Council, commitment fees, discount, initial fees for the service of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Original Bonds, and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of the same in operation, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Original Bonds or the repayment of the indebtedness incurred by the Issuer for such purposes shall be deemed part of the Cost of the Project.

G. The Infrastructure Council has approved the Project and has authorized the Authority to purchase bonds of the Issuer to permanently finance a portion of the Costs of the Project and to issue bond anticipation notes of the Issuer to temporarily finance a portion of the Costs of the Project. It is in the best interests of the Issuer that its Series 1999 A Bonds, Series 1999 B Bonds and Series 1999 Bond Anticipation Notes be sold to the Authority pursuant to the terms and provisions of the respective Loan Agreements.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the construction, acquisition and operation of the Project and issuance of the Original Bonds and Notes, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the PSC by Final Order, the time for rehearing and appeal of which has expired.

ARTICLE II

AUTHORIZATION OF EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO SYSTEM

Section 2.01. Authorization of Extensions, Additions, Betterments and Improvements. There is hereby authorized the acquisition and construction of the Project in accordance with plans and specifications prepared by the Consulting Engineers, approved by DEP, the Infrastructure Council and the Issuer, and on file in the office of the Board; provided, however, that such plans and specifications, and the construction and acquisition of the Project in accordance therewith, are subject to the specific authorization by the Board pursuant to a Supplemental Resolution.

Prior to issuing the Original Bonds for the acquisition and construction of the Project, the Issuer must receive acceptable bids or enter into contracts for the acquisition and construction of the Project, compatible with the financing plan submitted to the Program and the Infrastructure Council.

Section 2.02. Authorization of Payment of Prior Obligations. There is hereby authorized the payment in full of the Prior Obligations from the proceeds of the issuance of the Series 1999 B Bonds authorized hereunder.

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ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Original Bonds. For the purposes of funding the reserve accounts, paying costs of issuance, financing a portion of the costs of the acquisition and construction of the Project not otherwise provided for, paying in full the outstanding principal of and interest, if any, on the Prior Obligations, or any one or more of such items, there shall be issued the Original Bonds of the Issuer. The Original Bonds shall be issued in two series, with the first series to be designated "Sewerage System Revenue Bonds, Series 1999 A" and so on, in an aggregate principal amount of $9,950,000. Each series of Original Bonds shall be dated as of the date of delivery thereof, shall bear such interest, shall mature at such times, not exceeding forty (40) years after the date of issuance, and in such amount or amounts as shall be set out in the respective Loan Agreements. The Originial Bonds shall bear no interest. The Series 1999 A Bonds shall be subject to the SRF Administrative Fee. The repayment of principal on the Original Bonds shall be as set forth on Schedule Y to the respective Loan Agreements. The Original Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Loan Agreements and as the Board shall prescribe by a supplemental or amendatory resolution hereto adopted in connection with the sale of such Original Bonds.

The Original Bonds shall be payable as to principal, at the principal office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America.

Unless otherwise provided in the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a record of advances and a payment record attached, representing the aggregate principal amount, and shall mature in principal installments, all as provided in the Loan Agreements and said Supplemental Resolution. Bonds shall be exchangeable at the option and expense of the Bondholder for other fully registered Bonds in aggregate principal amount equal to the amount of said Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds may be issued in fully registered form, in the denomination of $5,000 or any integral multiple thereof, all as determined by a Supplemental Resolution. Said Bonds shall be dated as of the date specified in said Supplemental Resolution.

Section 3.02. Execution of Bonds. Said Bonds shall be executed in the name of the Issuer by the Chairman and attested by the Secretary, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of such Bonds, shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.03. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Resolution unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.08, shall have been duly manually executed by the 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 3.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Bonds.

So long as any of the Bonds remain Outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

Bonds shall be transferable only upon the books of the Bond Registrar, by the registered Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar, duly executed by the registered Owner or the Owner's duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, Bonds shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the 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 obliged to make any such exchange or transfer of Bonds during the 15 days preceding an interest payment date on the Bonds, or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed.

Section 3.05. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Bond Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Bond be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Bonds issued hereunder.

Section 3.06. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Owner or Owners of any of the Bonds shall ever have the right to compel the exercise of the taxing power, if any, of the Issuer to pay the Bonds or any interest thereon.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of all the Original Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. Such Net Revenues in an amount sufficient to pay the principal of and interest, if any, on and other payments for the Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund hereinafter established are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds as the same become due.

Section 3.08. Form of Original Bonds. The text of each series of Original Bonds shall be of substantially the following tenor, with such omissions, insertions and

variations as may be necessary and desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof.

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[FORM OF THE SERIES 1999 A BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WOOD
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1999 A
(WEST VIRGINIA SRF PROGRAM)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That LUBECK PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Wood 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 _____ ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 200_, as set forth on the "Schedule of Debt Service" attached as Exhibit A hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit A. The SRF Administrative Fee (as defined in the hereinafter described Bond Resolution) shall also be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on Exhibit B attached hereto.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated December 29, 1998, among the Authority, the DEP and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the

"Act"), a Resolution duly enacted by the Issuer on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ___ day of _____, 1999 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof. The Resolution provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Resolution.

THIS BOND RANKS EQUALLY AS TO LIEN AND SECURITY WITH THE ISSUER'S SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Series 1999 A Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1999 A Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of _____, _____, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond, to the same extent as if written fully herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the ___ day of _____, 1999.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

_____,
_____

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer, with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

[FORM OF THE SERIES 1999 B BOND]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WOOD
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM
REVENUE BONDS, SERIES 1999 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That LUBECK PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Wood 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"), on behalf of the West Virginia Infrastructure and Jobs Development Council, or registered assigns, the sum of _____ ($_____), or such lesser amount as is set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in quarterly installments on the 1st day of March, the 1st day of June, the 1st day of September and the 1st day of December in each year beginning ____, 200_, as set forth on the "Schedule of Debt Service" attached as Exhibit B hereto and incorporated herein by reference, with interest on each installment at the rate per annum set forth on said Exhibit B.

This bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of principal, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and as otherwise provided by the Loan Agreement dated _____, 1999, between the Authority and the Issuer.

This Bond is issued to permanently finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System"), to pay in full the outstanding principal of and interest, if any, on the Prior Obligations (as defined in the hereinafter defined Resolution) and to pay certain costs of issuance hereof and related costs. This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the

West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ___ day of _____, 1999 (collectively called 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 SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (THE "PARITY BONDS").

This Bond is payable only from and secured by a pledge of a first lien on the Net Revenues, on a parity with the lien of the Parity Bonds, to be derived from the operation of the System, moneys in the Series 1999 B Reserve Account created under the Resolution and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from said special fund provided from the Net Revenues, the moneys in the Reserve Account and unexpended Bond proceeds. Pursuant to the Resolution, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the amount required to pay the maximum amount due in any ensuing fiscal year of principal of and interest on all obligations on a parity with the Bonds, payable from such revenues, provided however, that so long as there exists in the Series 1999 B Reserve Account an amount equal to the maximum amount of principal and interest which will become due on the Bonds and any bonds on a parity therewith in any succeeding fiscal year, respectively, an amount equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds, for the terms of which, reference is made to the Resolution. Remedies provided the registered owners of the Bonds are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Bond is transferable, as provided in the Resolution, only upon the books of _____, _____, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Bond together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Bond, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Resolution and the statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond, to the same extent as if written fully herein.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Bond to be dated the ___ day of _____, 1999.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Original Bonds described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

_____,
_____

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

EXHIBIT B

SCHEDULE OF ANNUAL DEBT SERVICE

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within Bond and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer, with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

Section 3.09. Sale of Original Bonds; Ratification and Execution of Loan Agreements. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the respective Loan Agreements. As a ratification of the resolution or resolutions of the Board authorizing execution of the Loan Agreements, the Chairman is specifically authorized and directed to execute the Loan Agreements and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreements to the Authority. The Loan Agreements are specifically incorporated into this Resolution.

Section 3.10. Certificate of Consulting Engineers. Prior to the issuance of the Original Bonds, the Issuer must obtain the certificate of the Consulting Engineers, in the form attached to the SRF Loan Agreement, to the effect that the Project has been designed as provided in the Program application and will be constructed in accordance with the approved plans, specifications and design as submitted to the DEP and the Authority, as the case may be, that the Project will be adequate for the purposes for which it was designed, and the funding plan as submitted to the DEP and the Authority is sufficient to pay the costs of the acquisition and construction of the Project. Prior to the issuance of the Original Bonds, the Issuer will provide to the Infrastructure Council such certificates of the Consulting Engineers as the Infrastructure Council shall require.

Section 3.11. Amended Schedule A Filing. Within 60 days following the Completion Date, the Issuer will file with the Authority its schedule, in substantially the form of "Amended Schedule A" to the SRF Loan Agreement, setting forth the actual costs of the Project and sources of funds used therefor.

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ARTICLE IV

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BOND ANTICIPATION NOTES

Section 4.01. Authorization and Terms of Notes. In order to pay certain Costs of the Project pending receipt of proceeds from the issuance of additional sewerage system revenue bonds for the System or proceeds of additional grants (other than Infrastructure Council grants) received for the System, there shall be issued the Notes of the Issuer. The Notes shall be issued in one series, designated "Bond Anticipation Notes, Series 1999," in the aggregate principal amount of $16,550,000, and numbered R-1. The Notes shall be dated as of the date of delivery thereof, shall mature at such time and in such amount or amounts as shall be set forth in the Series 1999 Notes Loan Agreement and the Supplemental Resolution. The Notes shall bear no interest. The repayment of principal on the Notes shall be as set forth on Schedule Y to the Series 1999 Notes Loan Agreement and the Supplemental Resolution. The Notes shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and the Series 1999 Notes Loan Agreement and as the Board may prescribe by a supplementary or amendatory resolution hereto in connection with the sale of the Notes.

The Notes shall be payable as to principal at the principal office of the Paying Agent, in any coin or currency which, on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America.

Unless otherwise provided in the Supplemental Resolution, the Notes shall be issued in the form of a single note, fully registered to the Authority, with a record of advances attached, all as provided in the Series 1999 Note Loan Agreement and said Supplemental Resolution. The Notes shall be exchangeable at the option and expense of the Bondholder for other fully registered Notes in aggregate principal amount equal to the amount of said Notes then Outstanding, with a maturity corresponding to the dates of maturity of the Notes; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 4.02. Execution of Notes. The Notes shall be executed in the name of the Issuer by the Chairman and attested by the Secretary, and the seal of the Issuer shall be affixed thereto or imprinted thereon. In case any one or more of the officers who shall have signed or sealed the Notes shall cease to be such officer of the Issuer before the Notes so signed and sealed have been sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of the Notes, shall hold the proper office in the Issuer, although at the date of the Notes such person may not have held such office or may not have been so authorized.

Section 4.03. Authentication and Registration. No Note 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 Note, substantially in the form set forth in Section 4.08, shall have been duly manually executed by the Notes Registrar. Any such executed Certificate of Authentication and Registration upon any such Note shall be conclusive evidence that such Note 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 Notes Registrar if manually signed by an authorized officer of the Notes Registrar.

Section 4.04. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Notes shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner, in accepting any of said Notes shall be conclusively deemed to have agreed that such Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive owner shall further be conclusively deemed to have agreed that said Notes shall be incontestable in the hands of a bona fide holder for value in the manner provided hereinafter in the form of said Notes.

So long as the Notes remain Outstanding, the Issuer, through the Notes Registrar, shall keep and maintain books for the registration and transfer of the Notes.

The Notes shall be transferable only upon the books of the Notes Registrar, by the registered Owner thereof in person or by the Owner's attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Notes Registrar, duly executed by the registered Owner or the Owner's duly authorized attorney.

In all cases in which the privilege of exchanging the Notes or transferring the Notes is exercised, the Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be canceled by the Notes Registrar. For every such exchange or transfer of Bonds, the Notes 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 Note upon each exchange or transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

Section 4.05. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Note in exchange and substitution for such mutilated Note, upon surrender and cancellation of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, and upon the Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur and the Notes Registrar shall authenticate the new Note. All Notes so surrendered shall be

canceled by the Notes Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen, or destroyed, without surrender therefor.

Any such duplicate Notes issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Issuer, whether or not the lost, stolen or destroyed Notes be at any time found by anyone, and such duplicate Notes shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment Notes with any other Notes issued hereunder.

Section 4.06. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest, if any, solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer which may be issued for the Project, any additional grants (other than Infrastructure Council grants) which the Issuer may receive for the Project and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of the Notes. If, on the fortieth anniversary of the date of issuance of the Notes, the Issuer has not (i) issued any additional sewerage system revenue bonds, refunding revenue bonds, or bond anticipation notes pursuant to the terms of this Resolution or (ii) received any additional grants (other than Infrastructure Council grants) for the Project, then the Infrastructure Council shall instruct the Authority to convert the outstanding principal amount of the Note or Notes then Outstanding to a grant and to cancel the Note or Notes then Outstanding; provided, that in no event shall an amount of the principal amount of the Notes greater than $8,600,000 be converted to a grant.

The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Holder of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as may be set forth in the Supplemental Resolution.

Section 4.07. Covenants of Resolution Applicable to Notes. All covenants and restrictions contained in the Resolution, where appropriate and to the extent required by the Infrastructure Council, the Authority or the Series 1999 Notes Loan Agreement, are recognized and agreed by the Issuer to be applicable to the Notes.

Section 4.08. Form of Notes. The text of the Notes shall be of substantially the following tenor, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted by this Resolution or any subsequent resolution adopted prior to the issuance thereof.

[FORM OF THE BOND ANTICIPATION NOTE, SERIES 1999]

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
COUNTY OF WOOD
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM
BOND ANTICIPATION NOTE, SERIES 1999
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That LUBECK PUBLIC SERVICE DISTRICT, a public corporation and political subdivision organized and existing under the laws of the State of West Virginia, in Wood 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") on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Infrastructure Council"), or registered assigns, the principal sum of _____ ($_____), or such lesser amount as shall have been advanced hereunder and not previously repaid, as set forth on the Record of Advances attached hereto as Exhibit A and incorporated herein by reference, in annual installments of One Hundred Dollars ($100) on the 1st day of _____ of each year beginning _____, 200_, with the entire outstanding principal sum payable in full on the ___ day of _____, 200_. Notwithstanding the foregoing, if the Program (as defined in the hereinafter-defined Resolution) is amended prior to the maturity date of the Notes to permit the Authority and the DEP to authorize and make loans under the Program for terms in excess of twenty years, the Authority, acting on behalf of the Infrastructure Council and upon providing reasonable written notice to the Issuer, may declare all or any portion of the outstanding principal amount of the Notes to be due and payable prior to maturity.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the Paying Agent.

This Note 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 under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated __ ___, 1999, between the Issuer and the Authority, on behalf of the Infrastructure Council.

This Note is issued to temporarily finance a portion of the costs of the acquisition and construction of certain extensions, additions, betterments and improvements to the existing system of the Issuer (the "Project," and together with any further extensions, additions, betterments and improvements thereto, the "System") and to pay certain costs of issuance hereof and related costs. This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the West Virginia Code of 1931, as amended (the "Act"), a Resolution duly enacted by the Issuer on the ___ day of _____, 1999, and a Supplemental Resolution adopted by the Issuer on the ___ day of _____, 1999 (collectively called the "Resolution"), and is subject to all the terms and conditions thereof.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer which may be issued for the Project, any additional grants (other than Infrastructure Council grants) which the Issuer may receive for the Project and any additional bond anticipation notes which the Issuer may issue upon maturity of the Note. Money from these sources shall be deposited in the Series 1999 Notes Payment Fund established under the Resolution for the prompt payment of the principal of this Note. If, on the fortieth anniversary of the date of issuance of the Notes, the Issuer has not (i) issued any additional sewerage system revenue bonds, refunding revenue bonds, or bond anticipation notes pursuant to the terms of the Resolution or (ii) received any additional grants (other than Infrastructure Council grants) for the Project, then the Infrastructure Council shall instruct the Authority to convert the outstanding principal amount of the Note or Notes then Outstanding to a grant and to cancel the Note or Notes then Outstanding; provided, that in no event shall an amount of the principal amount of the Notes greater than $8,600,000 be converted to a grant.

This Note does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest thereon except from the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, acting on behalf of the Infrastructure Council, for the terms of which reference is made to the Resolution.

This Note is transferable, as provided in the Resolution, only upon the books of _____, _____, West Virginia, (the "Registrar"), kept for that purpose at the office of the Registrar, by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note together, with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, under the provision of the Act is, and has provided all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Note, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Resolution, 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 Note.

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 Note have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

All provisions of the Resolution and the statutes under which this Note is issued shall be deemed to be a part of the contract evidenced by this Note, to the same extent as if written fully herein.

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IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairman and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated the ___ day of _____, 1999.

[SEAL]

_____
Chairman

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes described in the within-mentioned Resolution and has been duly registered in the name of the registered owner set forth above.

_____,
_____

By _____
Its Authorized Officer

Dated: _____

EXHIBIT A

RECORD OF ADVANCES

Amount	Date	Amount	Date
(1) $		(7) $	
(2) $		(8) $	
(3) $		(9) $	
(4) $		(10) $	
(5) $		(11) $	
(6) $		(12) $	

Total $_____

[Form of Assignment]

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

_____

_____

_____

_____

_____

the within Note and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Note on the books kept for registration of the within Note of the said Issuer, with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

Section 4.09. Application of Notes Proceeds. The moneys derived from the sale of the Notes shall be deposited with the Depository Bank in the Series 1999 Bond and Note Construction Trust Fund and applied solely to the payment of the costs of the Project and the costs of issuance and related costs.

Section 4.10. Establishment of Series 1999 Bond Anticipation Notes Payment Fund. There is hereby created and established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Series 1999 Bond Anticipation Notes Payment Fund. Upon receipt of proceeds of any grants (other than an Infrastructure Council grants) for the System, any sewerage system revenue bonds or revenue refunding bonds of the Issuer, or any additional bond anticipation notes which the Issuer may issue upon maturity of the Notes pursuant to Section 4.11 hereof, an amount of the proceeds of such grants, revenue bonds or additional bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes shall be deposited in the Series 1999 Bond Anticipation Notes Payment Fund. All moneys so deposited in the Series 1999 Bond Anticipation Notes Payment Fund shall be paid by the Commission to the Authority on the maturity date of the Notes, if such moneys have been so deposited prior to the maturity date of the Notes, or on an earlier date if so requested by the Authority on behalf of the Infrastructure Council and if so directed by the Issuer, in full or partial payment of the outstanding principal of the Notes. All moneys deposited in the Series 1999 Bond Anticipation Notes Payment Fund shall be held in trust for the Authority on behalf of the Infrastructure Council, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Series 1999 Bond Anticipation Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 4.11. Conversion of Notes to Permanent Financing and/or Additional Bond Anticipation Notes.

A. In the event proceeds of any grants (other than Infrastructure Council grants) for the Project, any sewerage system revenue bonds or revenue refunding bonds of the Issuer or any other obligations of the Issuer issued subsequent to the issuance of the Notes are not sufficient or available on a timely basis to pay the Notes in full by the maturity date of the Notes, the Issuer covenants and agrees to issue and sell its revenue bonds and/or additional bond anticipation notes in an amount sufficient to pay the Notes in full pursuant to the requirements of this Section 4.11.

B. The Issuer covenants that no later than twelve months prior to the maturity date of the Notes, the Issuer will retain an Independent Certified Public Accountant to prepare a report (the "Customer Growth Report") setting forth the following information:

(i) the amount of additional Net Revenues of the System attributable to the annual customer growth experienced by the System during the period between the date of issuance of the Notes and the date of the report, taking into account any rebates required to be repaid to new customers for construction advances pursuant to applicable PSC regulations;

(ii) the existing maximum annual debt service requirements of all bonds, notes, and other obligations then Outstanding payable from the Net Revenues of the System, taking into account the periodic payments required to be made into the various sinking fund, reserve account, renewal and replacement fund payments required by this Resolution on account of the Bonds and by any other resolution authorizing the issuance of such bonds, notes and other obligations;

(iii) the increases in operation and maintenance expenses experienced by the System during the period between the date of issuance of the Notes and the date of the report, and the additional increases in operation and maintenance expenses that are expected to be experienced by the System as a result of future customer growth, the effects of inflation, or otherwise;

(iv) the rate coverage requirements established by Section 7.04 of this Resolution and any more stringent rate coverage requirements established in any resolution adopted after this Resolution authorizing the issuance of other bonds, notes or other obligations of the Issuer then Outstanding;

(v) the then-current rates and charges of the Issuer;

(vi) the sources of permanent financing potentially available to the Issuer during the succeeding six months, including, for each such source, the applicable principal amount available to be loaned to the Issuer, the applicable interest rate, the existence and amount of any administrative or similar fee to be imposed by the lender, and the term of the loan; and

(vii) whether, considering the factors stated in subdivisions (ii), (iii), (iv) and (v) above and the terms of the available sources of permanent financing stated in subdivision (vi) above, the additional Net Revenues of the System attributable to the annual customer growth experienced by the System stated in subdivision (i) are sufficient to permit the Issuer to issue additional revenue bonds payable from the Net Revenues of the System to repay all or a portion of the Outstanding principal amount of the Notes and, if so, the principal amount of such additional revenue bonds that could be so issued.

No later than twelve months prior to the maturity date of the Notes, the Issuer will contact all available governmental funding sources to secure the information required to be set forth in subdivision (vi) above.

C. The Issuer will provide the Customer Growth Report to the Authority and the Infrastructure Council no later than ten and one-half months prior to the maturity date of the Notes. Based on its review of the Customer Growth Report, the Infrastructure Council will recommend that the Issuer take one or both of the following actions:

(i) that the Issuer issue additional revenue bonds, notes or other obligations of the System and that the proceeds of such additional revenue bonds, notes or other obligations be deposited in the Series 1999 Bond Anticipation Notes Payment Fund prior to the maturity date of the Notes to be applied to the payment of all or a portion of the Outstanding principal amount of the Notes; or

(ii) to the extent that the proceeds of such additional revenue bonds, notes or other obligations be deposited in the Series 1999 Bond Anticipation Notes Payment Fund will be sufficient to repay only a portion of the Outstanding principal amount of the Notes, that on the maturity date of the notes, the Issuer issue an additional bond anticipation note or notes to the Authority on behalf of the Infrastructure Council, containing such terms as the Authority and the Infrastructure Council may request, with an aggregate principal amount equal to the principal amount of the Notes not paid in full on the maturity date of the Notes.

D. Upon receipt of the Infrastructure Council's recommendations offered in response to the Customer Growth Report, the Issuer will take such actions as are necessary and convenient to implement the recommendations of the Infrastructure Council, including the adoption of a bond and/or note resolution, the issuance of additional revenue bonds, notes or other obligations payable from the Net Revenues of the System or the issuance of additional bond anticipation notes or both in principal amounts sufficient to convert all of the Outstanding principal amount of the Notes to permanent financing or additional bond anticipation notes.

E. Notwithstanding any other provision of this Resolution, if the Program is amended prior to the maturity date of the Notes to permit the Authority and the DEP to authorize and make loans under the Program for terms in excess of twenty years, the Authority, acting on behalf of the Infrastructure Council and upon providing reasonable written notice to the Issuer, may declare all or any portion of the outstanding principal amount of the Notes to be due and payable prior to maturity.

Section 4.12. Prohibition of Other Debt. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by the System or the proceeds of any grants, revenue bonds or bond anticipation notes for the System, shall be issued by the Issuer other than pursuant to Section 4.11 hereof without the prior written consent of the Authority and the Infrastructure Council.

Section 4.13. Investment of Funds. Pending application as provided above, any moneys held in the Series 1999 Bond and Note Construction Trust Fund on account of the proceeds of the Notes and in the Series 1999 Bond Anticipation Notes Payment Fund shall

be invested and reinvested by the Depository Bank or the Commission, as applicable, at the direction of the Issuer to the fullest extent possible under applicable laws, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof.

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 (or more often if reasonably requested by the Issuer), a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Notes are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest, if any, on the Notes from gross income for federal income tax purposes.

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ARTICLE V

SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Continuation of Funds and Accounts with Depository Bank. The following special funds or accounts are created with (or, if established by a resolution prior to this resolution, continued hereby) and shall be held by the Depository Bank:

(1) Revenue Fund;

(2) Renewal and Replacement Fund; and

(3) Series 1999 Bond and Note Construction Trust Fund (with a separate subaccount to be established for each series of Original Bonds and for the Notes).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby established with the Commission:

(1) Series 1999 A Bonds Sinking Fund;

(a) Within the Series 1999 A Bonds Sinking Fund, the Series 1999 A Bonds Reserve Account;

(2) Series 1999 B Bonds Sinking Fund;

(a) Within the Series 1999 B Bonds Sinking Fund, the Series 1999 B Bonds Reserve Account; and

(3) Series 1999 Notes Payment Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner therein and herein provided.

(1) The Issuer shall, each month, transfer from the Revenue Fund an amount sufficient to pay current Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month (i) commencing 4 months prior to the first date of payment of interest, if any, on the respective series of Bonds for which interest has not been capitalized, apportion and set apart out of the

Revenue Fund and remit to the Commission, for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of interest which will become due on the respective series of 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 respective Sinking Fund and the next quarterly interest payment date is less than 4 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, and (ii) on the first day of each month, commencing 4 months prior to the first date of payment of principal on the respective series of Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the respective Sinking Funds, a sum equal to 1/3rd of the amount of principal which will mature and become due on the respective series of Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the respective Sinking Fund and the next quarterly principal payment date is less than 4 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. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(2) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(3) The Issuer shall next transfer from the Revenue Fund and pay to the Commission on the first day of each month, commencing 3 months prior to the first date of payment of principal of each respective series of Bonds, if not fully funded upon issuance of such series of Bonds, for deposit in the respective Reserve Account, an amount equal to 1/120 of the respective Reserve Requirement; provided, that no further payments shall be made into the respective Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Reserve Requirement. When additional series of Original Bonds are issued, the payment of interest and principal on said bonds shall be made simultaneously with the payments described in this Section 5.03A(3) and to the extent that Revenues are insufficient to make all of the payments, such payments shall be made, pro rata, among each series of Bonds.

(4) The Issuer shall next, from the moneys remaining in the Revenue Fund, on the first day of each month, 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 any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the

maximum extent required hereof) shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

Moneys in the respective Sinking Funds shall be used only for the purposes of paying principal of and interest on the respective series of Bonds as the same shall become due. Moneys in the Reserve Account in the respective Sinking Funds shall be used only for the purpose of paying principal of or interest on the respective series of Bonds, as the same shall come due, when other moneys in the respective Sinking Fund are insufficient therefor, and for no other purpose. Except for the funds required to be deposited in the Rebate Fund, all investment earnings on moneys in the respective Reserve Accounts shall be transferred, not less than once each year, to the respective Bond Construction Trust Funds prior to completion of the Project and thereafter, pro rata, to the respective Sinking Funds.

Any withdrawals from the Reserve Accounts which result in a reduction in the balance of any Reserve Account to an amount below the applicable Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Sinking Funds for payment of debt service on the Bonds have been made in full.

B. As and when additional Bonds ranking on a parity with the Original Bonds are issued, provision shall be made for additional payments into the Sinking Fund sufficient to pay any interest on such additional Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the Reserve Account in an amount equal to the Reserve Requirement.

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 Article VIII 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 series of Bonds and any additional Bonds ranking on a parity with them that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

C. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinabove provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein, and the Renewal and Replacement Fund during the following month or such longer period as shall be required by the Act, such excess shall be considered as surplus revenues (the "Surplus Revenue"). Surplus Revenues may be used for any lawful purpose of the System.

D. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank, on such dates as the Commission or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay any Depository Bank's charges then due.

Simultaneously with the deposits made to the Commission pursuant to Section 5.03A(2) and (3) the Issuer shall remit to the Commission the SRF Administrative Fee.

The Issuer shall complete the "monthly payment form," which form is attached to the Loan Agreement as Exhibit F, and submit a copy of said form along with a copy of its payment check to the Authority by the fifth day of each calendar month.

E. The moneys in excess of the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

F. If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates.

G. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

H. The Gross Revenues of the System shall only be used for purposes of the System.

Section 5.04. Excess Bond and Note Proceeds. Upon completion of construction of the Project, as certified by the Consulting Engineers, and after all costs have been paid, any remaining proceeds of the Series 1999 A Bonds shall be used as directed in writing by the Authority and the DEP and any remaining proceeds of the Series 1999 B Bonds or the Notes shall be used as directed in writing by the Authority and the Infrastructure Council.

ARTICLE VI

APPLICATION OF ORIGINAL BOND AND NOTE PROCEEDS; FUNDS AND ACCOUNTS

Section 6.01. Application of Original Bond and Note Proceeds. From the moneys received from time to time from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Bonds, there shall be deposited with the Commission in the respective Reserve Accounts the sums, if any, set forth in the Supplemental Resolution for funding of said Reserve Accounts.

B. The remaining moneys derived from the sale of the Original Bonds and the Notes shall be deposited by the Issuer, as received from time to time, in the Bond and Note Construction Trust Fund hereinafter established.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Series 1999 Bond and Note Construction Trust Fund," with a separate subaccount to be established for each series of Original Bonds and for the Notes. The Depository Bank shall act as a trustee and fiduciary for the Bondholders and Noteholders with respect to the Bond and Note Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond and Note Construction Trust Fund set forth in this Resolution. Moneys in the Bond and Note Construction Trust Fund shall be used solely to pay Costs of the Project and until so transferred or expended, are hereby pledged as additional security for the Bonds.

Section 6.02. Disbursements From the Bond and Note Construction Trust Fund.

A. With respect to the proceeds of the Series 1999 A Bonds, on or before the Closing Date, the Issuer shall have delivered to the Authority a report listing the specific purposes for which the proceeds of the Series 1999 A Bonds will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

Except as provided in Section 6.01 hereof, disbursements from the Bond and Note Construction Trust Fund from proceeds of the Series 1999 A Bonds (except for the cost of issuance of the Series 1999 A Bonds which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the DEP of the following:

(1) A "Payment Requisition Form," attached to the SRF Loan Agreement, and

(2) a certificate, signed by the Chairman and the Consulting Engineers, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursements theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

B. With respect to the proceeds of the Series 1999 B Bonds and the Notes, on or before the Closing Date, the Issuer shall have delivered to the Infrastructure Council a report listing the specific purposes for which the proceeds of the Series 1999 B will be expended and the disbursement procedures for such proceeds, including an estimated monthly draw schedule.

With respect to the proceeds of the Series 1999 B Bonds and the Notes, each month the Issuer shall provide the Infrastructure Council with a requisition for costs incurred for the Project with such documentation as the Infrastructure Council shall from time to time require. Upon receipt of the proceeds from the Authority, the Issuer shall deposit the proceeds in the Bond and Note Construction Trust Fund and 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 Bond and Note Construction Trust Fund (except for the cost of issuance of the Series 1999 B Bonds or the Notes, which shall be made upon request of the Issuer) shall be made only after submission to, and approval from, the Authority and the Infrastructure Council, of a certificate, signed by the Chairman and the Consulting Engineers, stating that:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursements theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

C. In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond and Note Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond and Note Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond and Note Construction Trust Fund. The Consulting Engineers shall, from time to time, file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond and Note Construction Trust Fund, including any subaccounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

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ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions set forth in this Resolution shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any owner or owners of the Bonds or the Notes. In addition to the other covenants, agreements and provisions of this Resolution, the Issuer hereby covenants and agrees with the owners of the Bonds and the Notes 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 Notes, or the interest, if any, thereon, is Outstanding and unpaid.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. The Bonds and Notes 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 Notes or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Original Bonds issued hereunder shall be secured forthwith, equally and ratably, by a first lien on the Net Revenues derived from the operation of the System. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on 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 are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds and for the other purposes provided in the Resolution.

Section 7.04. Rates. Prior to issuance of the Original Bonds and the Notes, equitable rates or charges for the use of and service rendered by the System will be established in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reductions in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System, (i) to provide for all reasonable expenses of operation, repair and maintenance of the System, including any reserves required by the PSC Order or any supplemental or amendments thereto, and (ii) to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any succeeding Fiscal Year for payment

of principal of and interest on the Bonds; provided that, in the event that amounts at least equal to or in excess of the respective Reserve Requirements are on deposit in the respective Reserve Accounts, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any succeeding Fiscal Year for payment of principal of and interest on the Original Bonds.

Section 7.05. Completion, Operation and Maintenance; Schedule of Cost. The Issuer will expeditiously complete the Project and will maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner, making such expenditures, for equipment and for renewal, repair and replacement as may be proper for the economical operation and maintenance thereof, from the revenues of said System, in the manner provided in the Resolution.

Upon completion of the Project, the Issuer shall file with the Authority a schedule, in substantially the form of Amended Schedule A to the Program loan application, setting forth the actual costs of the Project and sources of funds therefor.

Section 7.06. Sale of the System. The System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient fully to pay or redeem at or prior to maturity all the Bonds and Notes Outstanding. The proceeds from such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the appropriate Sinking Funds for the Bonds and the Series 1999 Notes Payment Fund, and the Issuer shall direct the Commission to apply such proceeds to the payment of principal and any interest, if any, at maturity of Bonds and Notes about to mature and to the redemption prior to maturity, at the earliest date permitted hereby and at the redemption price, of all other Outstanding Bonds and Notes. Any balance remaining after the redemption or payment of all the Bonds and Notes and the interest, if any, thereon shall be remitted to the Issuer by the Commission, unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. The Board may then, if it be so advised, as evidenced by certificates of the Consulting Engineers, by resolution duly adopted, approve and concur in such finding and provide for the sale of such property if the amount to be received therefor is not in excess of ten thousand dollars ($10,000), or authorize such sale, lease or other disposition of such property, upon public bidding, if the amount to be received therefor is in excess of ten thousand dollars ($10,000) but not in excess of fifty thousand dollars ($50,000). The proceeds of any such sale, lease or other disposition of such property, not in excess of $10,000, shall be deposited in the Renewal and Replacement Fund. The proceeds derived from any such sale, lease or other disposition of such property, in excess of $10,000 and not in excess of $50,000, shall be remitted by the Issuer to the Commission for deposit, or a pro rata basis, in the respective Sinking Funds for

the Bonds and the Series 1999 Notes Payment Fund, and shall be applied only (i) to the redemption of Bonds of the last maturities then Outstanding or to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the redemption price of such Bonds and (ii) to the payment prior to maturity of the Notes. Such payments of such proceeds into the respective Sinking Funds, the Series 1999 Notes Payment Fund 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 shall be in excess of fifty thousand dollars ($50,000) and be insufficient to pay or redeem, prior to maturity, all the Bonds and Notes then Outstanding, without the prior approval and consent in writing of the owners, or their duly authorized representatives, of sixty-six and two-thirds percent (66-2/3%) in amount of the Bonds and Notes then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then owners of the Bonds and Notes, for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.07. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever, except pari passu additional Bonds provided for in Section 7.08 hereof, payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Parity Bonds may be issued as provided in Section 7.08 hereafter. All obligations hereafter issued by the Issuer payable from the revenues of the System, except such additional Parity Bonds, shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such revenues and in all other respects to the Bonds to the extent such are Outstanding; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts and the Renewal and Replacement Fund, at the time of the issuance of such subordinate obligations, have been made and are current.

In addition to the provisions and limitations stated in the preceding paragraph, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System so long as any portion of principal amount of the Notes or any additional bond anticipation notes issued for the purpose of renewing a portion of the original principal amount of the Notes is outstanding, unless the Issuer has secured the prior written consent of the Infrastructure Council and the Authority. The limitations imposed by the preceding sentence shall apply equally (i) in the case all or any portion of the aggregate principal amount of the Bonds is Outstanding and the obligations sought to be issued would rank prior to, equally, or junior and subordinate to such Outstanding Bonds as to lien on and source and security for payment with such Bonds; or (ii) in the case the aggregate principal amount of the Bonds has been paid in full or defeased pursuant to Section 10.01 hereof.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or, except with respect to said pari passu additional Bonds, being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Resolution or upon the System or any part thereof.

The Issuer shall give the Authority, the Infrastructure Council and the DEP prior written notice of its issuance of any other obligations to be used for the Project, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 7.08. Parity Bonds. No Parity Bonds payable out of the revenues of the System shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided and with the prior written consent of DEP, the Infrastructure Council and the Authority.

No Parity Bonds shall be issued, except for the purpose of financing the costs of the acquisition or construction of extensions, additions, betterments or improvements to the System or refunding the entirety of one or more issues or series of bonds or both such purposes.

No Parity Bonds shall be issued at any time, however, unless and until there has been procured and filed with the Secretary a written statement by Independent Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the net revenues actually derived, subject to the adjustments hereinafter provided, from the System during any twelve (12) consecutive months within the eighteen (18) months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual net revenues to be received in each of the three (3) succeeding years after the completion of the improvements to be financed by such additional Parity Bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on the following:

(1) Each series of Original Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual net revenues to be received in each of the three (3) succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased net revenues estimated to be derived from any increase in rates enacted by the Issuer, the time for appeal of which shall have expired

prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Secretary prior to the issuance of such additional Parity Bonds.

The Net Revenues actually derived from the System during the twelve (12) consecutive month period hereinabove referred to may be adjusted by adding to such net revenues such additional net revenues which would have been received, in the opinion of the Consulting Engineers and the Independent Accountants as stated in a certificate jointly made and signed by the Consulting Engineers and the Independent Accountants, on account of increased rates, rentals, fees and charges for the System enacted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate acquisition or construction of such extensions, additions, betterments or improvements to the System which are to be financed by such Parity Bonds.

All the covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the owners of the Original Bonds and the owners of any Parity Bonds subsequently issued, from time to time, within the limitations of and in compliance with this Section. All the Bonds, regardless of the time or times of their issuance shall rank equally with respect to their respective liens on the revenues of the System, and their respective sources of and security for payment from said revenues, without preference of any Bond over any other. The Issuer shall comply fully with all the increased payments into the various funds created in this Resolution required for and on account of such additional Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior lien of the Outstanding Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all the payments into the respective funds and accounts provided for in this Resolution on account of the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

Section 7.09. Insurance and Construction Bonds. The Issuer will carry such insurance and in such amounts as is customarily carried with respect to works and properties similar to the System, with a reputable insurance carrier or carriers, against loss or damage

by fire, explosion, hurricane, earthquake, cyclone, occupancy or other hazards and risks. The Issuer will require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority, the Infrastructure Council and the DEP, so long as the Authority is the Owner of the Bonds. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their interests may appear, in accordance with the Loan Agreements, during construction of the Project in the full insurable value thereof. In time of war, the Issuer shall also carry in said amount such insurance as may be available against loss or damage by the risks and hazards of war. The proceeds of all such insurance policies shall be disposed of as provided in the Resolution and otherwise shall be placed in the Renewal and Replacement Fund and used only for the repair and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer shall also carry liability insurance for damage or injury to persons or property in amounts adequate for such purposes and customarily carried with respect to works and properties similar to the System. The Issuer shall carry such other insurance as is required by the Authority, the Infrastructure Council and DEP and as set forth in the Loan Agreements, including but not limited to flood insurance and business interruption insurance, to the extent available at reasonable cost to the Issuer.

The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract, as security for the faithful performance of such contract.

Section 7.10. Consulting Engineers. The Issuer shall provide and maintain competent and adequate resident engineering services satisfactory to the Authority, the Infrastructure Council and the DEP covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers. Such resident engineer shall certify to the Authority, the DEP and the Issuer, at the completion of construction, that construction is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies. The Issuer shall require the Consulting Engineers to submit Recipient As-Built Plans, as defined in the SRF Regulations, to it within 60 days of the completion of the Project. The Issuer shall notify the DEP in writing of such receipt. The Issuer shall submit a Performance Certificate, the form of which is attached as Exhibit A to the SRF Loan Agreement and is incorporated herein by reference, to the DEP within 60 days of the end of the first year after the Project is completed.

The Issuer shall require the Consulting Engineers to submit the final Operation and Maintenance Manual, as defined in the SRF Regulations, to the DEP when the Project

is 90% completed. The Issuer agrees that it will, at all times, provide operation and maintenance of the System to comply with any and all State and federal standards. The Issuer agrees that qualified operating personnel, properly certified by the State, will be employed before the Project is 25% complete and agrees that it will retain such a certified operator(s) to operate the System during the entire term of the SRF Loan Agreement. The Issuer shall notify the DEP in writing of the certified operator employed at the 25% completion stage.

The Issuer agrees that qualified operating personnel, properly certified by the State, will be retained to operate the System during the entire terms of the Loan Agreements.

Section 7.11. Compliance With Loan Agreements, Rules and Regulations. The Issuer hereby covenants and agrees to perform and satisfy all terms and conditions of the Loan Agreements and to comply with all applicable laws, rules and regulations issued by the Authority, the Infrastructure Council, the DEP or other State, federal or local bodies in regard to the construction of the Project and operation, maintenance and use of the System. Notwithstanding anything herein to the contrary, the Issuer will provide the DEP and the Infrastructure Council with copies of all documents submitted to the Authority.

Section 7.12. No Free Services. The Issuer will not render or cause to be rendered any free services, of any nature, by its System; and, in the event the Issuer or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or himself or herself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the Issuer shall transfer from its general funds sufficient sums to pay such charges for service to any of its departments or properties. The revenues so received shall be deemed to be revenues derived from the operation of the System and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.13. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges that shall become delinquent to the full extent permitted or authorized by the laws of the State of West Virginia. All such rates and charges, if not paid when due, shall become a lien on the premises served by the System.

Whenever any rates, rentals or charges for the services or facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, shall remain unpaid for a period of thirty (30) days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. The Issuer further covenants and agrees that it will, to the full extent permitted by law, and any rules and regulations promulgated by the PSC applicable thereto, discontinue and shut off both the

water and sewerage services and facilities of the System to all delinquent users of the services and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, and will not restore either water or sewerage services of the System until all delinquent charges for the service and facilities of the System, or of the waterworks system or sewerage system constituting a part thereof, plus reasonable interest penalty charges for the restoration of service, have been fully paid.

Section 7.14. No Competing Franchise. To the extent allowable by law, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.15. Books, Records and Facilities. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the costs of acquiring, constructing and installing the Project. The Issuer shall permit the Authority, the Infrastructure Council, and the DEP, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System, at all reasonable times, for the purpose of audit and examination. The Issuer shall submit to the Authority, the Infrastructure Council, and the DEP such documents and information as they may reasonably require in connection with the acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the Loan Agreements or Grant Receipts or other sources of financing for the Project.

The Issuer shall permit the Authority, the Infrastructure Council and the DEP, or their agents and representatives, to inspect all records pertaining to the operation of the System, at all reasonable times, following completion of construction of the Project and commencement of operation thereof, or, if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any owner of a Bond or Bonds issued pursuant to the Resolution shall have the right, at all reasonable times, to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow currently accepted accounting practices in accordance with the rules and regulations of the PSC and the Act. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books, and along with other bookkeeping records as prescribed by the Issuer. The Issuer shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Issuer shall be reported to such agent of the Issuer as the Board shall direct.

The Issuer shall file with the Consulting Engineers and the Authority, the Infrastructure Council and DEP, and shall mail in each year to any owner or owners of Bonds requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Resolution with respect to said Bonds and the status of all said funds and accounts.

(C) The amount of any Bonds or other obligations Outstanding and secured by a lien on the Net Revenues of the System.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be completely audited by Independent Accountants in compliance with the applicable OMB Circular, or any successors thereto, and the Single Audit Act, or any successors thereto, and shall mail upon request, and make available generally, the report of said Independent Accountants, or a summary thereof, to any owner or owners of Bonds issued pursuant to this Resolution, and shall submit said report to the Authority, the Infrastructure Council and the DEP. The report of said audit shall include a statement that the Issuer is in compliance with the terms and provisions of the Act and the Loan Agreements and that the Issuer's revenues are adequate to meet its operation and maintenance expenses and debt service requirements.

The Issuer shall, commencing on the date contracts are executed for the construction of the Project and for two years following the completion of the Project, each month complete a Monthly Financial Report and forward a copy by the 10th of each month to the Authority, the Infrastructure Council and the DEP.

The Issuer shall, during construction of the Project, complete Payment Requisition Forms, the form of which is attached to the SRF Loan Agreement as Exhibit C and is incorporated herein by reference, and forward a copy to the DEP in compliance with the Issuer's construction schedule.

The Issuer shall provide the DEP with all appropriate documentation to comply with any special conditions established by federal and/or state regulations as set forth in Exhibit E of the SRF Loan Agreement or as promulgated from time to time.

The Issuer shall permit the Authority, the Infrastructure Council or the DEP, or their agents and representatives, to enter and inspect the Project site and Project facilities at all reasonable times. Prior to, during and after completion of construction of the Project, the Issuer shall also provide the Authority, the Infrastructure Council and the DEP, or their agents and representatives, with access to the System site and System facilities as may be

reasonably necessary to accomplish all of the powers and rights of the Authority, the Infrastructure Council and the DEP with respect to the System pursuant to the Act.

Section 7.16. Operating Budget. The Issuer shall, annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Authority, the Infrastructure Council and the DEP within thirty days of the adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Board shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made, except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and to any Holder of any Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to any Holder of any Bonds or anyone acting for and in behalf of such Holder of any Bonds.

Section 7.17. Mandatory Connection. The mandatory use of the System is essential and necessary to protect and preserve the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Bureau of Public Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the PSC shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matter from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Bureau of Public Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer

and a public nuisance, which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.18. Statutory Mortgage Lien. For the further protection of the Bondholders, a statutory mortgage lien upon the System is granted and created by the Bond Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon delivery of the Bonds and shall be for the benefit of all Owners of the Bonds.

Section 7.19. PSC Order. The Issuer shall comply with the conditions of the PSC Order and any supplement or amendment thereto.

Section 7.20. Covenant to Amend Resolution. The Issuer retains the right to make any amendments, insertions or deletions by Supplemental Resolution of this Resolution as the Issuer deems necessary prior to the issuance of the Bonds to meet the requirements of the Authority and the Infrastructure Council.

Section 7.21. Compensation of the Issuer. The Issuer hereby covenants and agrees that no compensation for policy direction shall be paid to the members of the Board of the Issuer in excess of the amount permitted by the Act. Payment of any compensation to any such member for policy direction shall not be made if such payment would cause the Net Revenues to fall below the amount required to meet all payments provided for herein, nor when there is a default in the performance of or compliance with any covenants or provision hereof.

Section 7.22. Securities Law Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission or the Depository Bank, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the need for such moneys for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Except as specifically provided herein, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, including but not limited to those in the Bond and Note Construction Trust Fund, and used for the purpose of such fund or account. The interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the Owner, including the value of accrued interest and giving effect to the amortization of discount and investments in the "consolidated fund" of the West Virginia Board of Investments shall be valued at par. The Commission or the Depository Bank, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. Such Depository Bank may make any and all investments permitted by this Section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

Notwithstanding the foregoing, any investments made pursuant to this Resolution shall comply with the guidelines of the Authority and the Infrastructure Council.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(A) If default occurs in the due and punctual payment of the principal of or interest on any series of Original Bonds; or

(B) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to such Bonds set forth in this Resolution, any supplemental Resolution, or in such Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by any bank or banking association holding any fund or account hereunder or an owner of such Bonds; or

(C) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default with respect to any Bonds, any Registered Owner of such Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding, enforce all rights of such registered Owners, including the right to require the Issuer to perform its duties under the Act and the Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon such Bonds, (iv) by action at law or bill in equity, require the Issuer to account as if it were the trustee of an express trust for the registered Owners of such Bonds, and (v) by action or bill in equity, enjoin any acts in violation of the Resolution with respect to such Bonds, or the rights of such registered Owners.

Section 9.03. Appointment of Receiver. Any Bondholder may, by proper legal action, compel the performance of the duties of the Issuer under the Resolution and the Act, including the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any default in the payment of interest on any Bonds when the same shall become due, or in the payment of the principal of any Bond or Bonds, either at the specified date of maturity thereof or at a date set for redemption thereof, or otherwise in the performance of any covenant contained in the Resolution other than as to such payment and such default shall continue for a period of thirty (30) days after written notice to the Issuer of such default, any Bondholder shall, in addition to all other remedies or rights, have the right, by appropriate

legal proceedings, to obtain the appointment of a receiver to administer the System on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the Bonds and any interest thereon, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses of the System and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of the Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate, maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds issued pursuant to the Resolution and interest thereon and under any covenants of the Resolution for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any owner of Bonds issued pursuant to this Resolution shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Owners of Bonds issued pursuant to the Resolution. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System, for the sole purpose of the protection of both the Issuer and Bondholders, and the curing and making good of any default under the provisions of the Resolution, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

ARTICLE X

DEFEASANCE

Section 10.01. Defeasance of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Owners of all Bonds the principal thereof, and redemption premium, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in the Resolution, then the pledge of Net Revenues and any other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient to pay, as and when due, the principal of and interest on the Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. All Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agents, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments and interest due and to become due on said Bonds on and prior to the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this Section nor principal or interest payments on any such securities shall be withdrawn or used for any purposes other than, and shall be held in trust for, the payment of the principal of and redemption premium, if applicable, on and interest on said Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal of and redemption premium, if applicable, on and interest to become due on said Bonds on and prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestments shall be paid over to the Issuer, as received by the Commission, free and clear of any trust, lien or pledge. For the purpose of this Section, securities shall mean and include only Government Obligations.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Modification or Amendment. No material modification or amendment of this Resolution or of any resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Bondholders or Noteholders shall be made without the consent in writing of the owners of two-thirds (2/3) or more in principal amount of the Bonds or Notes then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bond or Note or the rates of interest, if any, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, as provided in this Resolution without the consent of the owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds or Notes required for consent to the above permitted amendments or modifications.

Section 11.02. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution.

Section 11.03. Table of Contents and Headings. The Table of Contents and the headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 11.04. Repeal of Conflicting Resolutions. All resolutions, resolutions and orders, or parts thereof, in conflict with this Resolution are, to the extent of such conflict, repealed.

Section 11.05. Covenant of Due Procedure. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the final enactment and passage of this Resolution do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Chairman, the Secretary and members of the Board were at all times when any actions in connection with this Resolution occurred, and are, duly in office and duly qualified for such office.

Section 11.06. Effective Date. This Resolution shall take effect immediately upon its adoption.

LUBECK PUBLIC SERVICE DISTRICT

[SEAL]

Chairman, Public Service Board

Secretary, Public Service Board

Treasurer, Public Service Board

CHASFS3:137494-2

CERTIFICATION

Certified as a true copy of the Resolution adopted by the Public Service Board of Lubeck Public Service District.

Secretary, Public Service Board

[SEAL]

EXHIBIT A

Project Description

The Project consists of the construction of additions, betterments and improvements to the existing wastewater collection system of the Lubeck Public Service District and the construction of a new wastewater treatment facility. These improvements are intended to offer service to approximately 1,200 additional customers. It is expected that 15 existing wastewater treatment facilities will be eliminated as a result of the Project.

The proposed wastewater collection system improvements include construction of approximately 65,200 linear feet of six inch gravity sewers; 116,600 linear feet of eight inch gravity sewers; 6,900 linear feet of ten inch gravity sewers; 9,100 linear feet of 12 inch gravity sewers; 3,000 linear feet of 15 inch gravity sewers; 1,100 linear feet of 16 inch gravity sewers; 11,400 linear feet of 24 inch gravity sewers; 3,000 linear feet of 27 inch gravity sewers; and 3,600 linear feet of 30 inch gravity sewers. Collection system improvements also include approximately 912 manholes, three wastewater pumping stations, 2,800 linear feet of four inch force main, 14,600 linear feet of 16 inch force main, and 2,700 linear feet of 18 inch force main.

The proposed wastewater treatment plant is designed for an average flow of 1.5 million gallons per day (MGD). The treatment facility consists of a mechanical bar screen, grit removal, two 700,000 gallon oxidation ditches, two 251,000 gallon clarifiers, ultraviolet light disinfection, a 270,000 gallon aerobic digester, a belt filter press, an effluent flow meter, and other necessary appurtenances.

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATE, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWERAGE REVENUE BONDS, SERIES 1999 A AND SERIES 1999 B, AND THE LUBECK PUBLIC SERVICE DISTRICT SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK FOR THE BONDS AND NOTES; MAKING PROVISIONS FOR THE PAYMENT OF THE BONDS AND NOTES; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND NOTES.

WHEREAS, the Public Service Board (the "Board") of Lubeck Public Service District (the "District"), has duly and officially adopted a Bond and Note Resolution on February 25, 1999 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN EXTENSIONS, ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING SEWERAGE SYSTEM OF THE LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE DISTRICT OF SEWERAGE SYSTEM REVENUE BONDS AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES; AUTHORIZING THE ISSUANCE OF TWO SEPARATE SERIES OF SEWERAGE SYSTEM REVENUE BONDS OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF $9,950,000 AND THE ISSUANCE OF ONE OR MORE SERIES OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES OF THE DISTRICT IN AN AGGREGATE PRINCIPAL AMOUNT OF $16,550,000, SUCH BONDS AND NOTES TO BE USED, ALONG WITH OTHER FUNDS AND MONEYS OF, OR AVAILABLE TO, THE DISTRICT WHICH MAY BE LAWFULLY EXPENDED FOR SUCH PURPOSES, TO FINANCE THE COST OF SUCH ACQUISITION AND CONSTRUCTION AND TO PAY OTHER COSTS IN CONNECTION THEREWITH; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING

EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS AND NOTES; APPROVING, RATIFYING AND CONFIRMING LOAN AGREEMENTS RELATING TO SUCH BONDS AND NOTES; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the Resolution provides for the issuance of the Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 A and Series 1999 B (the "Bonds"), in the aggregate principal amount of $9,500,000, and the issuance of the Lubeck Public Service District Sewerage System Bond Anticipation Notes, Series 1999 (the "Notes"), and has authorized the execution and delivery of loan agreements relating to the Bonds and Notes, including all amendments and supplements (collectively, the "Loan Agreements"), by and among the District and the West Virginia Water Development Authority (the "Authority") on behalf of the West Virginia Division of Environmental Protection ("DEP") and the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A, Chapter 22C, Article 2, and Chapter 31, Article 15A, of the West Virginia Code of 1931, as amended (collectively, the "Act");

WHEREAS, in the Resolution it is provided that the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds and Notes should be established by a supplemental resolution pertaining to the Bonds and Notes; and that other matters relating to the Bonds and Notes be herein provided for;

WHEREAS, the Board deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds and Notes be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and Notes be herein provided for; and

WHEREAS, capitalized terms not otherwise defined shall have the meanings given such terms in the Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT AS FOLLOWS:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the:

(A) Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 A, of the District, originally represented by a single Bond, numbered AR-1, in the principal amount of $7,950,000 (the "Series 1999 A Bonds"). The Series 1999 A Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2021, and shall bear no interest. The principal on the Series 1999 A Bonds is payable quarterly on March 1, June

1, September 1 and December 1 of each year, commencing June 1, 2001. The Series 1999 A Bonds shall be subject to redemption upon the written consent of the Authority and the DEP, upon payment of the redemption premium, if any, and upon continued compliance with the SRF Loan Agreement, so long as the Authority shall be the registered owner of the Series 1999 A Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference. The District shall pay the 1% SRF Administrative Fee as provided in the SRF Loan Agreement.

(B) Lubeck Public Service District Sewerage System Revenue Bonds, Series 1999 B, of the District, originally represented by a single Bond, numbered BR-1, in the principal amount of $2,000,000 (the "Series 1999 B Bonds"). The Series 1999 B Bonds shall be dated the date of delivery thereof, shall finally mature March 1, 2039, and shall bear no interest. The principal on the Series 1999 B Bonds is payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2001. The Series 1999 B Bonds shall be subject to redemption upon the written consent of the Authority and the Infrastructure Council, upon payment of the redemption premium, if any, and upon continued compliance with the applicable Loan Agreement, so long as the Authority shall be the registered owner of the Series 1999 B Bonds, and shall be payable in installments of principal in the amounts as set forth in "Schedule Y," attached thereto and incorporated herein by reference.

(C) Lubeck Public Service District Sewerage System Bond Anticipation Notes, the Series 1999, of the District, originally represented by a single Note, numbered R-1, in the principal amount of $16,550,000 (the "Notes"). The Notes shall be dated the day of delivery thereof, shall be payable in annual installments of $100.00 ($100.00) on the first day of June of each year beginning June 1, 2001, with the entire outstanding principal sum payable in full on the 1st day of March, 2006. The Notes shall bear no interest.

Section 2. The Bonds and Notes shall each be issued as a fully registered Bond or Note, both as to principal and interest, if any, and shall be registered to the Authority.

Section 3. All other provisions relating to the Bonds and Notes and the text of the Bonds and Notes shall be in substantially the form provided in the Resolution.

Section 4. The District does hereby ratify the Loan Agreements, copies of which are incorporated herein by reference, and the execution and delivery of the Chairman of the Loan Agreements, and the performance of the obligations contained therein, on behalf of the District are hereby authorized, directed, ratified and approved. The District hereby affirms all covenants and representations made in the Loan Agreements and in the Applications to the DEP, the Council and the Authority. The price of the Bonds and Notes shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds will be advanced from time to time as requisitioned by the District.

Section 5. The District does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar (the "Registrar") for the Bonds

and Notes and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds and Notes, by and between the District and the Registrar, in substantially the form attached hereto. The execution and delivery by the Chairman of the Registrar's Agreement, and the performance of the obligations contained therein on behalf of the District, are hereby authorized, approved and directed.

Section 6. The District does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds and Notes.

Section 7. The District does hereby appoint One Valley Bank, National Association, Lubeck Branch, Lubeck, West Virginia, as Depository Bank under the Resolution.

Section 8. The District has established with the Depository Bank a Reserve Account for each series of Bonds pursuant to the Resolution. The Reserve Accounts will be funded with equal payments on a monthly basis, in accordance with and pursuant to the schedule set forth in Section 5.03 of the Resolution, until such Reserve Accounts hold 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 Accounts and the Sinking Funds (established for the annual payment of principal and interest, if any) will be used solely to pay principal of and interest on the Bonds and will not be available to pay costs of the Project.

Section 9. The proceeds of the Bonds and Notes, as advanced from time to time, shall be deposited in or credited to the Series 1999 Bond and Note Construction Trust Fund, as received from time to time for payment of Costs of the Project, including costs of issuance of the Bonds and Notes.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds and Notes hereby and by the Resolution approved and provided for, to the end that the Bonds and Notes may be delivered on or about March 9, 1999, to the Authority pursuant to the Loan Agreements.

Section 11. The financing of the Project in part with proceeds of the Bonds and Notes is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the District hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such money market accounts until further directed in writing

by the District. Moneys in the Sinking Funds, including the Reserve Accounts therein, shall be invested by the Municipal Bond Commission in the West Virginia Consolidated Fund.

Section 13. The District hereby approves the costs of issuance and authorizes the payment of the same.

Section 14. This Supplemental Resolution shall be effective immediately following adoption hereof.

Dated: February 25, 1999

LUBECK PUBLIC SERVICE DISTRICT

Chairman, Public Service Board

Secretary, Public Service Board

Treasurer, Public Service Board

[SEAL]

Secretary

CHASFS3:139860

CERTIFICATION

Certified as a true copy of the Supplemental Resolution adopted by the Public Service Board of Lubeck Public Service District.

Secretary, Public Service Board

[SEAL]

CHASFS3:139860

LUBECK PUBLIC SERVICE DISTRICT 2.4

Sewer Revenue Bonds, Series 2005 A
(West Virginia Infrastructure Fund),
Sewer Revenue Bonds, Series 2005 B
(West Virginia Infrastructure Fund)
and
Sewerage System Bond Anticipation Notes, Series 2005
(West Virginia Infrastructure Fund)

BOND AND NOTE RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $7,879,443 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); NOT MORE THAN $2,411,178 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN $6,278,679 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Resolution. This Resolution (together with any order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. Lubeck Public Service District (the "Issuer") is a public service district, a public corporation and political subdivision of the State of West Virginia in Wood County of said State.

B. The Issuer presently owns and operates a public sewerage system. However, for the health, safety, advantage, convenience and welfare of the inhabitants of the Issuer, the Issuer has heretofore acquired and constructed certain improvements and extensions to the existing public sewerage system of the Issuer, consisting of approximately 40 miles of sewer collection lines and a 1.5 million gallons per day wastewater treatment plant, together with all appurtenant facilities (collectively, the "Project") (the existing public sewerage facilities of the Issuer, the Project and any further improvements or extensions thereto are herein called the "System"), in accordance with the plans and specifications prepared by the Consulting Engineers and filed with the Issuer.

C. The Issuer has heretofore temporarily financed a portion of the costs of the acquisition and construction of the Project through the issuance of its Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund), dated March 9, 1999, in the original aggregate principal amount of $16,550,000, of which $16,549,300 is presently outstanding (the "Prior Notes").

D. Pursuant to the Act, the Issuer is authorized and empowered to issue refunding revenue bonds for the purpose of refunding, retiring or refinancing the Prior Notes. The Issuer hereby determines that it is necessary and desirable to refund the Prior Notes.

E. The Issuer intends to refund the Prior Notes through the issuance of its revenue bonds and notes to the West Virginia Water Development Authority (the "Authority"), which administers the West Virginia Infrastructure Fund (the "Infrastructure Fund") for the West Virginia Infrastructure and Jobs Development Council (the "Council").

F. It is deemed necessary for the Issuer to issue its (i) Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $7,879,443 (the "Series 2005 A Bonds"); (ii) Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $2,411,178 (the "Series 2005 B Bonds"); and (iii) Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), in the aggregate principal amount of not more than $6,278,679 (the "Series 2005 Notes" or the "Notes"), to refund the Prior Notes and pay all costs relating thereto. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest, if any, upon the Series 2005 Bonds prior to and during acquisition and construction of the Project and for a

period not exceeding six (6) months after completion of acquisition and construction of the Project; amounts which may be deposited in the respective Reserve Accounts (as hereinafter defined); costs of refunding the Prior Notes; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees and expenses of the Authority, discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Series 2005 Bonds and the Series 2005 Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the cost of acquisition and construction of the Project, and the performance of the things herein required or permitted, in connection with any thereof; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2005 Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project, as hereinafter defined.

G. The period of usefulness of the System after the refunding of the Prior Notes is not less than 40 years.

H. It is in the best interests of the Issuer that the Series 2005 Bonds and the Series 2005 Notes be sold to the Authority pursuant to the terms and provisions of the respective loan agreements by and between the Issuer and the Authority, on behalf of the Council, in forms satisfactory to the Issuer, the Authority and the Council (collectively, the "Loan Agreements"), all of which are approved hereby if not previously approved by resolution of the Issuer.

I. Upon the refunding of the Prior Notes, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2005 Bonds as to liens, pledge and source of and security for payment, being the Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated March 9, 1999, issued in the original aggregate principal amount of $7,950,000 (the "Series 1999 A Bonds"); and Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), dated March 9, 1999, issued in the original aggregate principal amount of $2,000,000 (the "Series 1999 B Bonds") (collectively, the "Prior Bonds").

Prior to the issuance of the Series 2005 Bonds, the Issuer will obtain (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2005 Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolution.

The Series 2005 Notes shall be issued junior and subordinate to the Prior Bonds and the Series 2005 Bonds as to liens, pledge and source of and security for payment.

J. The estimated revenues to be derived in each year following the refunding of the Prior Notes from the operation of the System will be sufficient to pay all Operating Expenses of the System and the principal of and interest on the Series 2005 Bonds and the Prior Bonds, and all funds and accounts and other payments provided for herein, all as such terms are hereinafter defined.

K. The Issuer has complied with all requirements of West Virginia law and the Loan Agreements relating to authorization of the acquisition, construction and operation of the Project and the System and issuance of the Series 2005 Bonds and the Series 2005 Notes, or will have so complied prior to issuance of any thereof, including, among other things and without limitation, the approval of the financing hereof by the Council and the approval of this financing and necessary user rates and charges described herein from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Series 2005 Bonds and the Series 2005 Notes or such final order will not be subject to appeal or rehearing.

L. The Project has been approved by the Council as required under Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2005 Bonds by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2005 Bonds, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

In consideration of the acceptance of the Series 2005 Notes by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2005 Notes, all which shall be of equal rank and without preference, priority or distinction between any one Note of a series and any other Notes of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means, collectively, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended and in effect on the date of adoption hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser and Registered Owner of the Series 2005 Bonds and the Series 2005 Notes, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any temporary Chairperson duly selected by the Governing Body.

"Bond Legislation," "Resolution," "Bond and Note Resolution" or "Local Act" means this Bond and Note Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" means the bank or other entity to be designated as such for the Series 2005 Bonds in the Supplemental Resolution and its successors and assigns.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year, except that the first Bond Year shall begin on the Closing Date.

"Bonds" means, collectively, the Series 2005 Bonds, the Prior Bonds and, where appropriate, any bonds on a parity therewith subsequently authorized to be issued hereunder or by another resolution of the Issuer.

"Chairperson" means the Chairperson of the Governing Body of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 2005 Bonds and the Series 2005 Notes for the Prior Notes.

"Code" means the Internal Revenue Code of 1986, as amended, and the Regulations.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineers" means Burgess & Niple, Inc., Parkersburg, West Virginia, or any qualified engineer or firm of engineers, licensed by the State, that shall at any time hereafter be procured by the Issuer as Consulting Engineers for the System or portion thereof, in accordance with Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended.

"Costs" or "Costs of the Project" means those costs described in Section 1.02F hereof to be a part of the cost of refunding the Prior Notes.

"Council" means the West Virginia Infrastructure and Jobs Development Council or any other agency of the State of West Virginia that succeeds to the functions of the Council.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns, which shall be a member of FDIC.

"FDIC" means the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" or "Board" means the public service board of the Issuer, as it may now or hereafter be constituted.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

"Grants" means all monies received by the Issuer on account of any Grant or Grants for the Project.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined) or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Independent Certified Public Accountants" means any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" means

(A) any security (within the meaning of Section 165(g)(2)(A) or (B) of the Code),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan.

Except as provided in the following sentence, the term "Investment Property" does not include any tax-exempt bond. With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C) of the Code), the term "Investment Property" includes a specified private activity bond (as so defined).

"Issuer" means Lubeck Public Service District, a public service district, public corporation and political subdivision of the State of West Virginia in Wood County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body of the Issuer.

"Loan Agreements" or "Loan Agreement" means, collectively or individually, the Loan Agreements for each series of the Series 2005 Bonds and the Series 2005 Notes by and between the Issuer and the Authority, on behalf of the Council, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified, by the Supplemental Resolution.

"Net Proceeds" means the face amount of the Series 2005 Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds, if any, deposited in the respective Series 2005 Bonds Reserve Accounts. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts

resulting from the investment of proceeds of the Series 2005 Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

"Note Registrar" means the bank or other entity to be designated as such for the Series 2005 Notes in the Supplemental Resolution and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, the Registrar and the Paying Agent (all as herein defined), other than those capitalized as part of the costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Outstanding," when used with reference to Bonds or Notes and as of any particular date, describes all Bonds or Notes theretofore and thereupon being authenticated and delivered, except (i) any Bond or Note cancelled by the Registrar at or prior to said date; (ii) any Bond or Note for the payment of which monies, 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 or Note deemed to have been paid as provided in Article X hereof; and (iv) for purposes of consents or other action by a specified percentage of Registered Owners, any Bond or Note registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the Commission or other entity designated as such for the Series 2005 Bonds and the Series 2005 Notes in the Supplemental Resolution with the written consent of the Authority and the Council.

"Prior Bonds" means collectively, the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), and Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), as described in Section 1.02I hereof.

"Prior Notes" means the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund), as described in Section 1.02C hereof.

"Prior Resolution" means the resolution adopted by the Issuer on February 25, 1999, as supplemented by the supplemental resolution of the Issuer, authorizing the issuance of the Prior Bonds.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit; provided that use as a member of the general public shall not be taken into account.

"Project" means the Project as described in Section 1.02B hereof.

"PSC" means the Public Service Commission of West Virginia and any successor to the functions thereof.

"PSC Order" means, collectively, the final order or orders of the PSC, approving the refunding of the Prior Notes through the issuance of the Series 2005 Bonds and the Series 2005 Notes and the rates of the System.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar

obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements or similar banking arrangements, fully secured by investments of the types described in paragraphs (a) through (e) above or fully insured by the FDIC, with member banks of the Federal Reserve system or banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Investment Management Board pursuant to Chapter 12, Article 6 of the Code of West Virginia,1931, as amended; and

(i) Obligations of states or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Registered Owner" or any similar term whenever used herein with respect to an outstanding Bond or Note, means the person in whose name such Bond or Note is registered.

"Registrar" means the Bond Registrar or the Note Registrar, designated in the Supplemental Resolution.

"Regulations" means temporary and permanent regulations promulgated under the Code or any predecessor to the Code.

"Renewal and Replacement Fund" means the Renewal and Replacement Fund established by the Prior Resolution and continued hereby.

"Reserve Accounts" means, collectively, the respective reserve accounts established for the Series 2005 Bonds and the Prior Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts for the Series 2005 Bonds and the Prior Bonds.

"Revenue Fund" means the Revenue Fund previously established by the Prior Resolution and continued hereby.

"Secretary" means the Secretary of the Governing Body of the Issuer.

"Series 2005 Bonds" means, collectively, the Series 2005 A Bonds and the Series 2005 B Bonds of the Issuer, authorized by this Resolution.

"Series 2005 A Bonds" means the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 A Bonds Reserve Account" means the Series 2005 A Bonds Reserve Account established by Section 5.02 hereof.

"Series 2005 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 A Bonds in the then current or any succeeding year.

"Series 2005 A Bonds Sinking Fund" means the Series 2005 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2005 B Bonds" means the Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 B Bonds Reserve Account" means the Series 2005 B Bonds Reserve Account established by Section 5.02 hereof.

"Series 2005 B Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest, if any, which will become due on the Series 2005 B Bonds in the then current or any succeeding year.

"Series 2005 B Bonds Sinking Fund" means the Series 2005 B Bonds Sinking Fund established by Section 5.02 hereof.

"Series 2005 Notes" or the "Notes" means the Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, authorized by this Resolution.

"Series 2005 Notes Payment Fund" means the Series 2005 Notes Payment Fund established by Section 4.12 hereof.

"Sinking Funds" means, collectively, the respective sinking funds established for the Series 2005 Bonds and the Prior Bonds.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution or order of the Issuer supplementing or amending this Resolution and, when preceded by the article "the," refers specifically to the supplemental resolution or resolutions authorizing the sale of the Series 2005 Bonds and the Series 2005 Notes; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Series 2005 Bonds or the Series 2005 Notes, and not so included, may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Prior Bonds, the Series 2005 Bonds or any other obligations of the Issuer, including, without limitation, the Renewal and Replacement Fund, the Sinking Funds and the Reserve Accounts.

"System" means the complete public sewerage system of the Issuer, as presently existing in its entirety or any integral part thereof, and all sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage system; and shall also include any and all extensions, additions, betterments and improvements thereto hereafter acquired or constructed for the sewerage system from any sources whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

"West Virginia Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Chapter 31, Article 15A, Section 9 of the Code of West Virginia, 1931, as amended and in effect on the date adopted hereof.

Additional terms and phrases are defined in this Resolution as they are used. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Bonds or any certificate or other document by the Chairman or the Secretary shall mean that such Bonds, certificate or other document may be executed or attested by an Acting Chairman or Acting Secretary.

ARTICLE II

AUTHORIZATION OF REFUNDING OF PRIOR NOTES

Section 2.01. Authorization of Refunding of Prior Notes. There is hereby authorized and ordered the refunding of all the Prior Notes Outstanding on the Closing Date, through the exchange of the Prior Bonds with the Series 2005 Bonds and the Series 2005 Notes. Upon the refunding of the Prior Notes, the pledge of funds in favor of the Registered Owners of the Prior Notes imposed by the Prior Resolution and the monies in the funds and accounts created by the Prior Resolution pledged to the payment of the Prior Notes are hereby ordered terminated, discharged and released.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENTS

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 2005 Bonds, refunding the Prior Notes, funding the reserve accounts for the Series 2005 Bonds, and paying certain costs of issuance of the Series 2005 Bonds and related costs, or any or all of such purposes, as determined by the Supplemental Resolution, there shall be and hereby are authorized to be issued negotiable Series 2005 Bonds of the Issuer. The Series 2005 Bonds shall be issued in two series. The Series 2005 A Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund)," in an aggregate principal amount of not more than $7,879,443, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. The Series 2005 B Bonds shall be issued as a single bond, designated as "Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), in an aggregate amount of not more than $2,411,178, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 3.02. Terms of Bonds. The Series 2005 Bonds shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution or as specifically provided in the respective Loan Agreements. The Series 2005 Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series 2005 Bonds, if any, shall be paid by check or draft of the Paying Agent mailed to the Registered Owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the respective Series 2005 Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each respective series of Series 2005 Bonds, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Series 2005 Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond or Bonds of the same series in aggregate principal amount equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as

applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. Such Bonds shall be dated and shall have such terms as set forth in a Supplemental Resolution.

Section 3.03. Execution of Bonds. The Series 2005 Bonds shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Series 2005 Bonds shall cease to be such officer of the Issuer before the Series 2005 Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Series 2005 Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Series 2005 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the form set forth in Section 3.10 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Series 2005 Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Series 2005 Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner, in accepting the Series 2005 Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner shall further be conclusively deemed to have agreed that such Bonds shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Series 2005 Bonds remain outstanding, the Issuer, through the Bond Registrar as its agent, shall keep and maintain books for the registration and transfer of the Bonds.

The registered 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 Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be canceled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate, register and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be canceled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds Not to be Indebtedness of the Issuer. The Series 2005 Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Registered Owner of the Series 2005 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2005 Bonds or the interest, if any, thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2005 Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2005 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation and the Prior Resolution, are hereby irrevocably pledged to such payments as they become due.

Section 3.09. Delivery of Bonds. The Issuer shall execute and deliver the Series 2005 Bonds to the Bond Registrar, and the Bond Registrar shall authenticate, register and deliver the Series 2005 Bonds to the original purchasers upon receipt of a request and authorization to the Bond Registrar on behalf of the Issuer, signed by an Authorized Officer, to authenticate, register and deliver the Series 2005 Bonds to the original purchasers.

Section 3.10. Form of Bonds. The text of the respective Series 2005 Bonds shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF SERIES 2005 A BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. AR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this __ day of _____, 2005, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 _____ _____DOLLARS ($_____), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2005.

This Bond is issued to refund the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2005, and a Supplemental Resolution duly adopted by the Issuer on

_____, 2005 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; AND (3) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (COLLECTIVELY, THE "FIRST LIEN BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the First Lien Bonds and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2005 A Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2005 A Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the First Lien Bonds; provided however, that so long as there exists in the Series 2005 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the First Lien Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond are

exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All monies received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2005.

_____,
as Registrar

_____
Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____the within Bond and does hereby irrevocably constitute and appoint _____; Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

(FORM OF SERIES 2005 B BOND)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BOND, SERIES 2005 B
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. BR-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this _____ day of _____, 2005, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia in Wood 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 _____ DOLLARS ($_____), in quarterly installments on March 1, June 1, September 1 and December 1 of each year, commencing _____ 1, 200_, as set forth on the "Debt Service Schedule" attached as EXHIBIT A hereto and incorporated herein by reference.

This Bond shall bear no interest. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council"), and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement by and between the Issuer and the Authority, on behalf of the Council, dated _____, 2005.

This Bond is issued to refund the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes"). The existing public sewerage facilities of the Issuer and any further improvements or extensions thereto are herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly

Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2005, and a Supplemental Resolution duly adopted by the Issuer on _____, 2005 (collectively, the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for this Bond under the Bond Legislation.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS WITH THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; AND (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____ (COLLECTIVELY, THE "FIRST LIEN BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, on a parity with the pledge of Net Revenues in favor of the holders of the First Lien Bonds and from monies in the reserve account created under the Bond Legislation for this Bond (the "Series 2005 B Bonds Reserve Account") and unexpended proceeds of this Bond. Such Net Revenues shall be sufficient to pay the principal of and interest, if any, on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, or the interest, if any, hereon, except from said special fund provided from the Net Revenues, the monies in the Series 2005 B Bonds Reserve Account and unexpended proceeds of this Bond. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on this Bond and all other obligations secured by a lien on or payable from such revenues on a parity with this Bond, including the First Lien Bonds; provided however, that so long as there exists in the Series 2005 B Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest, if any, which will become due on this Bond in the then current or any succeeding year, and in

the respective reserve accounts established for any other obligations outstanding on a parity with this Bond, including the First Lien Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of this Bond for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of this Bond are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar (as defined in the Bond Legislation) by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All monies received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law and the Bond Legislation, shall be applied solely to payment of the costs of refunding the Prior Notes as described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such monies, until so applied, in favor of the registered owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Bond do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the Net Revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be signed by its Chairperson and its corporate seal to be hereunto affixed and attested by its Secretary, and has caused this Bond to be dated as of the date first written above.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2005 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: _____, 2005.

_____,
as Registrar

_____
Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _____ the within Bond and does hereby irrevocably constitute and appoint _____; Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: _____, _____.

_____

In the presence of:

_____

Section 3.11. Sale of Bonds; Approval and Ratification of Execution of Loan Agreements. The Loan Agreements for the Series 2005 Bonds, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2005 Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreements. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreements and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreements to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 3.12. Filing of Amended Schedule. The Issuer will file with the Council and the Authority a schedule for the Series 2005 Bonds and the Series 2005 Notes, the form of which will be provided by the Council, setting forth the sources and uses of funds therefor.

ARTICLE IV

AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF NOTES; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT

Section 4.01. Authorization of Notes. For the purposes of refunding the Prior Notes and paying certain costs of issuance of the Notes and related costs, there shall be and hereby are authorized to be issued negotiable Notes of the Issuer. The Notes shall be issued as a single note, designated "Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund)," in the aggregate principal amount of not more than $6,278,679, and shall have such terms as set forth hereinafter and in the Supplemental Resolution.

Section 4.02. Terms of Notes. The Notes shall be issued in such principal amounts; shall bear interest, if any, at such rate or rates, not exceeding the then legal maximum rate, payable on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in the Supplemental Resolution or as specifically provided in the Loan Agreement. The Notes shall be payable as to principal at the principal office of the Paying Agent, in any coin or currency which, on the date of payment of principal is legal tender for the payment of public and private debts under the laws of the United States of America.

Unless otherwise provided in the Supplemental Resolution, the Notes shall be issued in the form of a single note, fully registered to the Authority, all as provided in the Loan Agreement and the Supplemental Resolution. The Notes shall be exchangeable at the option and expense of the Registered Owner for other fully registered Notes in aggregate principal amount equal to the amount of said Notes then Outstanding, with a maturity corresponding to the dates of maturity of the Notes; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Section 4.03. Execution of Notes. The Notes shall be executed in the name of the Issuer by the Chairperson, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Secretary. In case any one or more of the officers who shall have signed or sealed the Notes shall cease to be such officer of the Issuer before the Notes so signed and sealed have been sold and delivered, such Notes may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Notes had not ceased to hold such office. The Notes may be signed and sealed on behalf of the Issuer by such person as, at the actual time of the execution of the Notes, shall hold the proper office in the Issuer, although at the date of the Notes such person may not have held such office or may not have been so authorized.

Section 4.04. Authentication and Registration. No Note 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 Note, substantially in the form set forth in Section 4.10, shall have been duly manually executed by the Notes Registrar. Any such executed Certificate of Authentication and Registration upon any such Note shall be conclusive evidence that such Note has been authenticated, registered and delivered under this Resolution. The Certificate of Authentication and Registration on any Note shall be deemed to have been executed by the Notes Registrar if manually signed by an authorized officer of the Notes Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all the Notes issued hereunder.

Section 4.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner, in accepting any of the Notes shall be conclusively deemed to have agreed that such Notes shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner shall further be conclusively deemed to have agreed that such Notes shall be incontestable in the hands of a bona fide registered owner for value.

So long as the Notes remain Outstanding, the Issuer, through the Notes Registrar as its agent, shall keep and maintain books for the registration and transfer of the Notes.

The registered Notes shall be transferable only upon the books of the Notes 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 Notes Registrar, duly executed by the Registered Owner or his duly authorized attorney.

In all cases in which the privilege of exchanging the Notes or transferring the Notes is exercised, the Notes shall be delivered in accordance with the provisions of this Resolution. All Notes surrendered in any such exchanges or transfers shall forthwith be canceled by the Notes Registrar. For every such exchange or transfer of Notes, the Notes 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 Note upon each exchange or transfer, and any other expenses of the Notes Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

Section 4.06. Notes Mutilated, Destroyed, Stolen or Lost. In case any Note shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Notes Registrar shall, if so advised by the Issuer, authenticate, register and deliver a

new Note of the same series and of like tenor as the Notes so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Note, upon surrender and cancellation of such mutilated Note, or in lieu of and substitution for the Note destroyed, stolen or lost, and upon the Registered Owner's furnishing the Issuer proof of ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Notes Registrar may incur. All Notes so surrendered shall be canceled by the Notes Registrar and held for the account of the Issuer. If such Note shall have matured or be about to mature, instead of issuing a substitute Note, the Issuer may pay the same, upon being indemnified as aforesaid, and, if such Note be lost, stolen, or destroyed, without surrender therefor.

Section 4.07. Pledge of Security for the Notes. The Notes shall be payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants (other than Council grants) which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of the Notes.

Section 4.08. Notes Not to be Indebtedness of Issuer. The Notes shall be special obligations of the Issuer, payable solely from the sources set forth in Section 4.07 hereof. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power, if any, of the Issuer is pledged for the payment of the Notes. The Registered Owner of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues.

Section 4.09. Covenants of Resolution Applicable to Notes. All covenants and restrictions contained in the Resolution, where appropriate and to the extent required by the Council, the Authority or the Loan Agreement for the Notes, are recognized and agreed by the Issuer to be applicable to the Notes.

Section 4.10. Form of Notes. The text of the Notes shall be in substantially the following form, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby or by any Supplemental Resolution adopted prior to the issuance thereof:

(FORM OF NOTE)

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
SEWERAGE SYSTEM BOND ANTICIPATION NOTE, SERIES 2005
(WEST VIRGINIA INFRASTRUCTURE FUND)

No. R-1 $_____

KNOW ALL MEN BY THESE PRESENTS: That on this __ day of _____, 2005, LUBECK PUBLIC SERVICE DISTRICT, a public service district, public corporation and political subdivision of the State of West Virginia, in Wood 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 _____ DOLLARS ($_____), in annual installments of One Hundred Dollars ($100) on June 1, 2006, June 1, 2007, June 1, 2008, and June 1, 2009, and with the entire outstanding principal amount payable in full on March 1, 2010.

This Note shall bear no interest. The principal of this Note is payable in any coin or currency which on the date of payment thereof 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 Note may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority and the West Virginia Infrastructure and Jobs Development Council (the "Council") and under the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement dated ___, 2005, between the Issuer and the Authority, on behalf of the Council.

This Note is issued to refund the Issuer's Sewerage System Bond Anticipation Notes, Series 1999 (West Virginia Infrastructure Fund) (the "Prior Notes") and to pay certain costs of issuance hereof and related costs. This Note is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), a Resolution duly adopted by the Issuer on _____, 2005, and a Supplemental Resolution duly adopted by the Issuer on _____, 2005 (collectively, the "Resolution"), and is subject to all the terms and conditions thereof.

THIS NOTE IS ISSUED JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S (1) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 A (WEST VIRGINIA SRF PROGRAM), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $7,950,000; (2) SEWERAGE SYSTEM REVENUE BONDS, SERIES 1999 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED MARCH 9, 1999, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,000,000; (3) SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____; AND (4) SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND), DATED _____, 2005, ISSUED CONCURRENTLY HEREWITH IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $_____.

This Note is payable solely from proceeds of any additional sewerage system revenue bonds or refunding revenue bonds of the Issuer, any additional grants (other than Council grants) which the Issuer may receive and any additional bond anticipation notes which the Issuer may issue from time to time upon maturity of this Note. Money from these sources shall be deposited in the Series 2005 Notes Payment Fund established under the Resolution for the prompt payment of this Note.

This Note does not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from the sources set forth above. Pursuant to the Resolution, the Issuer has entered into certain covenants with the Authority, for the terms of which reference is made to the Resolution. Remedies provided the Authority are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof.

This Note is transferable, as provided in the Resolution, only upon the books of the Registrar (as defined in the Resolution) by the registered owner or its attorney duly authorized in writing, upon the surrender of this Note, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or its attorney duly authorized in writing.

This Note, 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 Note, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the costs of refunding the Prior Notes and costs of issuance

hereof as described in the Resolution, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owner of this Note.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and at the issuance of this Note do exist, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Note, 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.

All provisions of the Resolution and the statutes under which this Note is issued shall be deemed to be a part of the contract evidenced by this Note, to the same extent as if written fully herein.

IN WITNESS WHEREOF, LUBECK PUBLIC SERVICE DISTRICT has caused this Note to be signed by its Chairperson and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Secretary, and has caused this Note to be dated as of the date first written above.

[SEAL]

_____
Chairperson

ATTEST:

_____
Secretary

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the Notes 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: _____, 2005

_____,
as Registrar

_____
Authorized Officer

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto _

_____

_____

the within Note and does hereby irrevocably constitute and appoint _____, Attorney to transfer the said Note on the books kept for registration of the within Note of the said Issuer, with full power of substitution in the premises.

Dated: _____, ___.

_____

In the presence of:

_____

Section 4.11. Sale of Notes; Approval and Ratification of Execution of Loan Agreement. The Loan Agreement for the Series 2005 Notes, including all schedules and exhibits attached thereto, are hereby approved and incorporated into this Resolution. The Series 2005 Notes shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous resolution, the Chairperson is specifically authorized and directed to execute the Loan Agreement and the Secretary is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, approved, ratified and confirmed.

Section 4.12. Establishment of Notes Payment Fund. There is hereby created and established with the Commission, to be held by the Commission separate and apart from all other funds or accounts of the Commission and from all other funds or accounts of the Issuer, the Series 2005 Notes Payment Fund as set forth in Section 5.02 hereof. Upon receipt of proceeds of any grants (other than Council grants) for the System, any sewerage system revenue bonds or refunding revenue bonds of the Issuer, or any additional bond anticipation notes which the Issuer may issue upon maturity of the Notes, an amount of the proceeds of such grants, revenue bonds or bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes shall be deposited in the Series 2005 Notes Payment Fund. All moneys so deposited in the Series 2005 Notes Payment Fund shall be immediately paid by the Commission to the Authority in full or partial payment of the outstanding principal of the Notes. All moneys deposited in the Series 2005 Notes Payment Fund shall be held in trust for the Authority, and the Issuer shall have no rights with respect thereto except to receive the balance therein after payment of the Notes in full and the charges, if any, of the Paying Agent.

Any moneys remaining in the Series 2005 Notes Payment Fund, after the payment of the Notes in full and all charges of the Paying Agent, shall be used as directed in writing by the Authority and the Infrastructure Council.

Section 4.13. Prohibition of Other Debt. So long as the Notes are outstanding, no bonds, notes or other evidences of indebtedness secured by the System or the proceeds of any grants, revenue bonds or bond anticipation notes for the System, shall be issued by the Issuer without the prior written consent of the Authority and the Council.

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolution) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

(1) Revenue Fund (established by the Prior Resolution); and

(2) Renewal and Replacement Fund (established by the Prior Resolution).

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with and shall be held by the Commission, separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

(1) Series 2005 A Bonds Sinking Fund;

(2) Series 2005 A Bonds Reserve Account;

(3) Series 2005 B Bonds Sinking Fund;

(4) Series 2005 B Bonds Reserve Account; and

(5) Series 2005 Notes Payment Fund.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following manner and order of priority:

(1) The Issuer shall first, each month, pay from the Revenue Fund all Operating Expenses of the System.

(2) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit to the Commission (i) for deposit in the Sinking Funds for the Prior Bonds, the amounts required to pay principal of the Prior Bonds as required by the Prior Resolution; (ii) commencing 3 months prior to the first date of payment of principal of the Series 2005 A Bonds, for deposit in the Series 2005 A Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2005 A Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2005 A Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date; and (iii) commencing 3 months prior to the first date of payment of principal of the Series 2005 B Bonds, for deposit in the Series 2005 B Bonds Sinking Fund, an amount equal to 1/3rd of the amount of principal which will mature and become due on the Series 2005 B Bonds on the next ensuing quarterly principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 2005 B Bonds Sinking Fund and the next quarterly principal payment date is less than 3 months, then such monthly payment shall be increased proportionately to provide, 1 month prior to the next quarterly principal payment date, the required amount of principal coming due on such date.

(3) The Issuer shall next, (i) on the first day of each month, transfer from the Revenue Fund and remit to the Commission for deposit in the Reserve Accounts for the Prior Bonds, the amounts required by the Prior Resolution to be deposited therein; (ii) on March 1, 2021, after the Series 1999 A Bonds have been paid in full, the Issuer hereby authorizes and directs the Commission to transfer $437,747 from the Series 1999 A Bonds Reserve Account into the Series 2005 A Bonds Reserve Account to fully fund such account in an amount equal to the Series 2005 A Bonds Reserve Requirement; and (iii) on the first day of each month, commencing June 1, 2009, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2005 B Bonds Reserve Account, an amount equal to 1/120th of the Series 2005 B Bonds Reserve Requirement, until the amount in the Series 2005 B Bonds Reserve Account equals the Series 2005 B Bonds Reserve Requirement; provided that, no further payments shall be made into the respective Series 2005 Bonds Reserve Accounts when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the respective Series 2005 Bonds Reserve Requirement. In the event any amount is withdrawn from any of the Series 2005 Bonds Reserve Account, the Issuer shall transfer from the Revenue Fund and restore the deficient Series 2005 Bonds Reserve Account to an amount equal to the Series 2005 Bonds Reserve Requirement.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank, for deposit in the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month (as previously set forth in the Prior Resolution and not in addition thereto), exclusive of any payments for account of any

Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in any Reserve Account (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

Monies in the Series 2005 A Bonds Sinking Fund and the Series 2005 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the Series 2005 A Bonds and the Series 2005 B Bonds, respectively, as the same shall become due. Monies in the Series 2005 A Bonds Reserve Account and the Series 2005 B Bonds Reserve Account shall be used only for the purposes of paying principal of and interest, if any, on the Series 2005 A Bonds and the Series 2005 B Bonds, respectively, as the same shall come due, when other monies in the Series 2005 A Bonds Sinking Fund and the Series 2005 B Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on monies in the Series 2005 A Bonds Sinking Fund, the Series 2005 A Bonds Reserve Account, the Series 2005 B Bonds Sinking Fund and the Series 2005 B Bonds Reserve Account shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment due on the Series 2005 Bonds, respectively, and then to the next ensuing principal payment due thereon, all on a pro rata basis.

Any withdrawals from the Series 2005 A Bonds Reserve Account and the Series 2005 B Bonds Reserve Account which result in a reduction in the balance of such accounts to below the respective Reserve Requirements thereof, shall be restored from the first Net Revenues available after all required payments have been made in full in the order set forth above.

As and when additional Bonds ranking on a parity with the Series 2005 Bonds are issued, provision shall be made for additional payments into the respective sinking funds sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the respective reserve accounts in an amount equal to the requirement therefor.

The Issuer shall not be required to make any further payments into the respective Series 2005 Bonds Sinking Funds or the respective Series 2005 Bonds Reserve Accounts therein when the aggregate amount of funds therein are at least equal to the aggregate principal

amount of the Series 2005 Bonds issued pursuant to this Bond Legislation then Outstanding and all interest, if any, to accrue until the maturity thereof.

Principal, interest or reserve account payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the Series 2005 Bonds and the Prior Bonds, in accordance with the respective principal amounts then Outstanding.

The Commission is hereby designated as the fiscal agent for the administration of the respective Series 2005 Bonds Sinking Funds and the respective Series 2005 Bonds Reserve Accounts created hereunder, and all amounts required for said accounts shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Authority at any time, the Issuer shall make the necessary arrangements whereby required payments into the Series 2005 Bonds Sinking Funds and the respective Series 2005 Bonds Reserve Accounts shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required hereunder.

Monies in the respective Series 2005 Bonds Sinking Funds and the respective Series 2005 Bonds Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Series 2005 A Bonds Sinking Fund, the Series 2005 A Bonds Reserve Account, the Series 2005 B Bonds Sinking Fund and the Series 2005 B Bonds Reserve Account shall be used solely and only for, and are hereby pledged for, the purpose of servicing the Series 2005 Bonds, respectively, under the conditions and restrictions set forth herein.

B. The Issuer shall on the first day of each month (if the first day is not a business day, then the first business day of each month) deposit with the Commission the required principal, interest and reserve account payments with respect to the Series 2005 Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

C. The Issuer shall complete the "Monthly Payment Form," a form of which is attached to the Loan Agreements, and submit a copy of said form along with a copy of its payment check to the Authority by the 5th day of each calendar month.

D. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in the Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into such funds during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System.

E. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as such parties shall require, such additional sums as shall be necessary to pay their respective charges and fees then due. In the case of payments to the Commission under this paragraph, the Issuer shall, if required by the Authority at any time, make the necessary arrangements whereby such required payments shall be automatically debited from the Revenue Fund and electronically transferred to the Commission on the dates required.

F. The monies in excess of the maximum amounts insured by FDIC in any of the funds and accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

G. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03, and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

H. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

I. The Gross Revenues of the System shall only be used for purposes of the System.

ARTICLE VI

EXCHANGE OF BONDS AND NOTES FOR PRIOR NOTES

Section 6.01. Exchange of Bonds and Notes for Prior Notes. On the Closing Date, the Issuer shall deliver the Series 2005 A Bonds, the Series 2005 B Bonds and the Series 2005 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes. From the proceeds of the Series 2005 Notes, there shall be paid by the Issuer all costs of issuance of the Series 2005 Bonds and the Series 2005 Notes.

ARTICLE VII

ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Registered Owner of the Series 2005 Bonds and the Series 2005 Notes. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owners of the Series 2005 Bonds and the Series 2005 Notes as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as the Series 2005 Bonds and the Series 2005 Notes or the interest, if any, thereon are Outstanding and unpaid.

Section 7.02. Bonds not to be Indebtedness of the Issuer. The Series 2005 Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of the Series 2005 Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer, if any, to pay the Series 2005 Bonds or the interest, if any, thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues; Lien Position with Respect to Prior Bonds. The payment of the debt service of the Series 2005 Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the lien on the Net Revenues in favor of the Registered Owners of the Prior Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Series 2005 Bonds and the Prior Bonds and to make all other payments provided for in the Bond Legislation, are hereby irrevocably pledged to such payments as they become due.

Section 7.04. Initial Schedule of Rates and Charges. The Issuer has obtained any and all approvals of rates and charges required by State law and has taken any other action required to establish and impose such rates and charges, with all requisite appeal periods having expired without successful appeal. Such rates and charges shall be sufficient to comply with the requirements of the Loan Agreements. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth and approved by the PSC Order and such rates are hereby adopted.

So long as the Series 2005 Bonds are outstanding, the Issuer covenants and agrees to fix and collect rates, fees and other charges for the use of the System and to take all such actions necessary to provide funds sufficient to produce the required sums set forth in the Bond Legislation and in compliance with the Loan Agreements. In the event the schedule

of rates and charges initially established for the System in connection with the Series 2005 Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation and the Loan Agreements.

Section 7.05. Sale of the System. So long as the Prior Bonds are outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Resolution. Additionally, so long as the Series 2005 Bonds are outstanding and except as otherwise required by law or with the written consent of the Authority and the Council, the System may not be sold, mortgaged, leased or otherwise disposed of, except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to fully pay all the Bonds Outstanding in accordance with Article X hereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall immediately be remitted to the Commission for deposit in the respective Series 2005 Bonds Sinking Fund, and, with the written permission of the Authority and the Council, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal of and interest, if any, on the respective Series 2005 Bonds. Any balance remaining after the payment of the respective Series 2005 Bonds and interest, if any, thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of $10,000, the Issuer shall, by resolution, duly adopted, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $10,000 but not in excess of $50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers 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 shall be deposited in the Renewal and Replacement Fund. The payment of such proceeds into

the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said fund by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Registered Owners, or their duly authorized representatives, of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and Section 7.07 hereof, the Issuer shall not issue any obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Series 2005 Bonds. All obligations issued by the Issuer after the issuance of the Series 2005 Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an express statement that such obligations are junior and subordinate, as to lien on, pledge and source of and security for payment from such revenues and in all other respects, to the Series 2005 Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts set forth herein have been made and are current at the time of the issuance of such subordinate obligations.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2005 Bonds, and the interest thereon, if any, upon any or all of the income and revenues of the System pledged for payment of the Series 2005 Bonds and the interest thereon, if any, in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Authority and the Council prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants, or any other obligations related to the Project or the System.

Section 7.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolution shall be applicable. In addition, no Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of the Series 2005 Bonds pursuant to this Bond Legislation, except with the prior written consent of the Authority and the Council under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 2005 Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the design, acquisition, or construction of extensions and improvements to the System or refunding any outstanding Bonds, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Secretary a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues 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 3 succeeding years after the issuance of such Parity Bonds, if any, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

(1) The Bonds then Outstanding;

(2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Resolution then Outstanding; and

(3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer and approved by the PSC, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Secretary prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and

security of the Registered Owners of the Bonds and the Registered Owners of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on revenues of the System is subject to the prior and superior liens of the Series 2005 Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 2005 Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

Section 7.08. Books; Records and Audit. The Issuer shall keep complete and accurate records of the cost of acquiring the Project site and the cost of designing, acquiring, constructing and installing the Project. The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all books, documents, papers and records relating to the Project and the System at all reasonable times for the purpose of audit and examination. The Issuer shall submit to the Authority and the Council such documents and information as it may reasonably require in connection with the design, acquisition, construction and installation of the Project, the operation and maintenance of the System and the administration of the loan or any grants or other sources of financing for the Project.

The Issuer shall permit the Authority and the Council, or their agents and representatives, to inspect all records pertaining to the operation and maintenance of the System at any reasonable time following completion of construction of the Project and commencement of operation thereof, or if the Project is an improvement to an existing system, at any reasonable time following commencement of construction.

The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Registered Owner of the Bonds issued pursuant to this Bond Legislation shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the PSC. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Council, the Authority, or any other original purchaser of the Series 2005 Bonds, and shall mail in each year to any Registered Owner of the Series 2005 Bonds, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation, and the status of all said funds and accounts.

(C) The amount of any Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants in compliance with the applicable OMB Circular or any successor thereto, and the Single Audit Act, or any successor thereto, to the extent legally required, and shall mail upon request, and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Series 2005 Bonds, and shall submit said report to the Council and the Authority, or any other original purchaser of the Series 2005 Bonds. Such audit report submitted to the Council and the Authority shall include a statement that notes whether the results of tests disclosed instances of noncompliance that are required to be reported under government auditing standards and, if they are, describes the instances of noncompliance and the audited financial statements shall include a statement that notes whether the revenues of the System are adequate to meet the Issuer's Operating Expenses and debt service and reserve requirements.

Subject to the terms, conditions and provisions of the Loan Agreements and the Act, the Issuer has acquired, or shall do all things necessary to acquire, the proposed site of the Project and shall do, is doing or has done all things necessary to construct the Project in accordance with the plans, specifications and designs prepared by the Consulting Engineers. All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Issuer.

The Issuer shall permit the Council and the Authority, or their agents and representatives, to enter and inspect the Project site and facilities at all reasonable times. Prior to, during and after completion of construction and commencement of operation of the Project, the Issuer shall also provide the Council and the Authority, or their agents and representatives, with access to the System site and facilities, as may be reasonably necessary to accomplish all of the powers and rights of the Council and the Authority with respect to the System pursuant to the Act.

Section 7.09. Rates. Prior to the issuance of the Series 2005 Bonds, equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Secretary, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from the System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all Operating Expenses of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2005 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 Bonds, including the Prior Bonds; provided that, in the event that amounts equal to or in excess of the reserve requirements are on deposit in the respective Series 2005 Bonds Reserve Accounts and any reserve accounts for obligations on a parity with the Series 2005 Bonds, including the Prior Bonds, are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest, if any, on the Series 2005 Bonds and all other obligations secured by a lien on or payable from such revenues on a parity with the Series 2005 Bonds, including the Prior Bonds. In any event, the Issuer shall not reduce the rates or charges for services described in Section 7.04.

Section 7.10. Operating Budget and Monthly Financial Report. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Council and the Authority within 30 days of adoption thereof. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by a professional engineer which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of a professional engineer that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Council and the Authority and to any Registered Owner of the Series 2005 Bonds, within 30 days of adoption thereof, and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all reasonable times to the Council and the Authority and to any Registered Owner of the Series 2005 Bonds, or anyone acting for and on behalf of such Registered Owner.

Commencing on the date contracts are executed for the acquisition and construction of the Project and for two years following the completion of the Project, the Issuer shall each month complete a "Monthly Financial Report," a form of which is attached to the Loan Agreements, and forward a copy of such report to the Council and the Authority by the 10th day of each month.

Section 7.11. Engineering Services and Operating Personnel. The Issuer will obtain a certificate of the Consulting Engineers in the form attached to the Loan Agreements, stating, among other things, that the Project has been or will be constructed in accordance with the approved plans, specifications and designs as submitted to the Council and the Authority, the Project is adequate for the purposes for which it was designed, the funding plan as submitted to the Council and the Authority is sufficient to pay the costs of acquisition and construction of the Project, and all permits required by federal and state laws for construction of the Project have been obtained.

The Issuer shall provide and maintain competent and adequate engineering services satisfactory to the Council and the Authority covering the supervision and inspection of the development and construction of the Project and bearing the responsibility of assuring that construction conforms to the plans, specifications and designs prepared by the Consulting Engineers, which have been approved by all necessary governmental bodies. Such engineer shall certify to the Council and the Authority and the Issuer at the completion of construction

that construction of the Project is in accordance with the approved plans, specifications and designs, or amendments thereto, approved by all necessary governmental bodies.

The Issuer shall employ qualified operating personnel properly certified by the State to operate the System during the entire term of the Loan Agreements.

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 Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 20 days after the same shall become due and payable, the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the PSC, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the PSC, discontinue and shut off the services of the System 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. If the water facilities are not owned by the Issuer, the Issuer will use diligent efforts to enter into a termination agreement with the provider of such water, subject to any required approval of such agreement by the PSC and all its rules, regulations and orders.

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. The revenues so received shall be deemed to be revenues derived from the

operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.15. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as the Series 2005 Bonds remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for the Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreements, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than $1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than $500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, if the facilities of the System are or will be located in designated special flood or mudslide-prone areas and to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

(6) FIDELITY BONDS will be provided as to every officer, member and employee of the Issuer or the Governing Body having custody of the revenues or of any other funds of the System, in an amount at least equal to the total funds in the custody of any such person at any one time.

B. The Issuer shall require all contractors engaged in the construction of the Project to furnish a performance bond and a payment bond, each in an amount equal to 100% of the contract price of the portion of the Project covered by the particular contract as security for the faithful performance of such contract. The Issuer shall verify such bonds prior to commencement of construction.

The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project; provided that the amounts and terms of such coverage are satisfactory to the Council and the Authority. In the event the Loan Agreements so require, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear. The Issuer shall verify such insurance prior to commencement of construction.

Section 7.16. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or transportation by such other method approved by the State Department of Health and such house, dwelling or building can be

adequately served by the System, and every such owner, tenant or occupant shall, after a 30-day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.17. Completion of Project; Permits and Orders. The Issuer shall complete the Project as promptly as possible and operate and maintain the System as a revenue-producing utility in good condition and in compliance with all federal and state requirements and standards.

The Issuer has obtained all permits required by state and federal laws for the acquisition and construction of the Project, all orders and approvals from the PSC and the Council necessary for the acquisition and construction of the Project and the operation of the System and all approvals for issuance of the Series 2005 Bonds required by state law, with all requisite appeal periods having expired without successful appeal.

Section 7.18. [Reserved.]

Section 7.19. Statutory Mortgage Lien. For the further protection of the Registered Owners of the Series 2005 Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Series 2005 Bonds, provided however, that the statutory mortgage lien of the Series 2005 Bonds shall be on a parity with the statutory mortgage lien of the Prior Bonds.

Section 7.20. Compliance with Loan Agreements and Law. The Issuer shall perform, satisfy and comply with all the terms, conditions and requirements of the Loan Agreements and the Act. Notwithstanding anything herein to the contrary, the Issuer will provide the Council with copies of all documents submitted to the Authority.

The Issuer shall also comply with all applicable laws, rules and regulations issued by the Council and the Authority or other state, federal or local bodies in regard to the acquisition and construction of the Project and the operation, maintenance and use of the System.

Section 7.21. Securities Laws Compliance. The Issuer will provide the Authority, in a timely manner, with any and all information that may be requested of it (including its annual audit report, financial statements, related information and notices of

changes in usage and customer base) so that the Authority may comply with the provisions of SEC Rule 15c2-12 (17 CFR Part 240).

ARTICLE VIII

INVESTMENT OF FUNDS

Section 8.01. Investment of Funds. Any monies held as a part of the funds and accounts created by this Bond Legislation other than the Revenue Fund, shall be invested and reinvested by the Commission, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, the need for such monies for the purposes set forth herein and the specific restrictions and provisions set forth in this Section 8.01.

Any investment shall be held in and at all times deemed a part of the fund or account in which such monies 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 shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Depository Bank may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, or more often as reasonably requested by the Issuer, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Series 2005 Bonds are Outstanding and as long thereafter as necessary to assure the exclusion of interest, if any, on the Series 2005 Bonds from gross income for federal income tax purposes.

Section 8.02. Certificate as to Use of Proceeds. The Issuer shall deliver a certificate as to use of proceeds or other similar certificate to be prepared by nationally recognized bond counsel relating to restrictions on the use of proceeds of the Series 2005 Bonds as a condition to issuance of the Series 2005 Bonds. In addition, the Issuer covenants (i) to comply with the Code and all Regulations from time to time in effect and applicable to the Series 2005 Bonds as may be necessary in order to maintain the status of the Series 2005 Bonds as governmental bonds; (ii) that it shall not take, or permit or suffer to be

taken, any action with respect to the Issuer's use of the proceeds of the Series 2005 Bonds which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Code, issued by the Authority or the Council, as the case may be, from which the proceeds of the Series 2005 Bonds are derived, to lose their status as tax-exempt bonds; and (iii) to take such action, or refrain from taking such action, as shall be deemed necessary by the Issuer, or requested by the Authority or the Council, to ensure compliance with the covenants and agreements set forth in this Section, regardless of whether such actions may be contrary to any of the provisions of this Resolution.

The Issuer shall annually furnish to the Authority, information with respect to the Issuer's use of the proceeds of the Series 2005 Bonds and any additional information requested by the Authority.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Series 2005 Bonds and the Series 2005 Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest, if any, on the Series 2005 Bonds or the Series 2005 Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Series 2005 Bonds or the Series 2005 Notes set forth in this Bond Legislation, any supplemental resolution or in the Series 2005 Bonds or the Series 2005 Notes, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, the Registrar, the Paying Agent or a Registered Owner; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America; or

(4) If default occurs with respect to the Prior Bonds or the Prior Resolution.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of the Series 2005 Bonds or the Series 2005 Notes may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2005 Bonds or the Series 2005 Notes, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2005 Bonds or the Series 2005 Notes, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2005 Bonds or the Series 2005 Notes, or the rights of such Registered Owners; provided that, all rights and remedies of the Registered Owners of the Series 2005 Bonds shall be on a parity with the of the Registered Owners of the Prior Bonds and provided further that, all rights and remedies of the Registered Owners of the Series 2005 Notes shall be junior and subordinate to the Registered Owners of the Prior Bonds and the Series 2005 Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Series 2005 Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Series 2005 Bonds, any Registered Owner of a Series 2005 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 Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Series 2005 Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of 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 exercise.

Whenever all that is due upon the Series 2005 Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Series 2005 Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and

the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Series 2005 Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of 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

PAYMENT OF BONDS AND NOTES

Section 10.01. Payment of Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2005 Bonds, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2005 Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2005 Bonds from gross income for federal income tax purposes.

Section 10.02. Payment of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Registered Owners of the Series 2005 Notes, the principal of and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of proceeds from any additional sewerage system revenue bonds or refunding revenue bonds, any additional bond anticipation notes or any additional grants pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 2005 Notes shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest, if any, on the Series 2005 Notes from gross income for federal income tax purposes.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. Prior to issuance of the Series 2005 Bonds, this Resolution may be amended or supplemented in any way by the Supplemental Resolution. Following issuance of the Series 2005 Bonds, no material modification or amendment of this Resolution, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the rights of Registered Owners of the Series 2005 Bonds shall be made without the consent in writing of the Registered Owners of the Series 2005 Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of the Series 2005 Bonds or the rate of interest, thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest, if any, out of the funds herein respectively pledged therefor without the consent of the Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of the Series 2005 Bonds, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest, if any, on the Series 2005 Bonds from gross income of the Registered Owner thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Series 2005 Bonds, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Resolution should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution, the Supplemental Resolution, the Series 2005 Bonds or the Series 2005 Notes.

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 Resolution. All orders or resolutions, or parts thereof, in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby repealed; provided that, in the event of any conflict between this

Bond Legislation and the Prior Resolution, the Prior Resolution 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 at 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 Chairman, 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 22nd day of September, 2005.

Chairperson

Member

Member

CERTIFICATION

Certified a true copy of a Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 22nd day of September, 2005.

Dated this 27th day of September, 2005.

[SEAL]

Secretary

09/16/05
101090/00309

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2005 A
(WEST VIRGINIA INFRASTRUCTURE FUND),
SEWER REVENUE BONDS, SERIES 2005 B
(WEST VIRGINIA INFRASTRUCTURE FUND) AND
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005
(WEST VIRGINIA INFRASTRUCTURE FUND)

2.5

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND), SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND) AND SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS AND NOTES TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; APPROVING AND RATIFYING THE LOAN AGREEMENTS WITH RESPECT TO SUCH BONDS AND NOTES; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS AND NOTES.

WHEREAS, the Public Service Board (the "Governing Body") of Lubeck Public Service District (the "Issuer") has duly and officially adopted a Resolution on September 22, 2005 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE REFUNDING OF THE SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 1999 (WEST VIRGINIA INFRASTRUCTURE FUND) OF LUBECK PUBLIC SERVICE DISTRICT AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE DISTRICT OF NOT MORE THAN $7,879,443 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 A (WEST VIRGINIA INFRASTRUCTURE FUND); NOT MORE THAN $2,411,178 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2005 B (WEST VIRGINIA INFRASTRUCTURE FUND); AND NOT MORE THAN $6,278,679 IN AGGREGATE PRINCIPAL AMOUNT OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE

FUND); PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS; AUTHORIZING EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO THE ISSUANCE OF SUCH BONDS; APPROVING, RATIFYING AND CONFIRMING THE LOAN AGREEMENTS RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the issuance of the Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), the Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), and the Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, in the respective aggregate principal amounts not to exceed $7,879,443, $2,411,178 and $6,278,679 (collectively, the "Bonds" and the "Notes"or individually, the "Series 2005 A Bonds," the "Series 2005 B Bonds" and the "Series 2005 Notes"), and has authorized the execution and delivery of loan agreements relating to the Bonds and the Notes, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all in accordance with Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes should be established by a supplemental resolution, and that other matters relating to the Bonds and the Notes be therein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds and the Notes are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Loan Agreement be approved and ratified, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds and the Notes be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and the Notes be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LUBECK PUBLIC SERVICE DISTRICT:

Section 1. Pursuant to the Resolution and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds and notes of the Issuer:

A. Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $7,879,443. The Series 2005 A Bonds shall be dated the date of delivery, shall finally mature March 1, 2039, and shall bear no interest. The principal of the Series 2005 A Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2021, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2005 A Bonds. The Series 2005 A Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2005 A Bonds.

B. Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single bond, numbered BR-1, in the original principal amount of $2,411,178. The Series 2005 B Bonds shall be dated the date of delivery, shall finally mature March 1, 2039, and shall bear no interest. The principal of the Series 2005 B Bonds shall be payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing September 1, 2009, in the amounts set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Series 2005 B Bonds. The Series 2005 B Bonds shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered Owner of the Series 2005 B Bonds.

C. Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, originally represented by a single note, numbered R-1, in the original principal amount of $6,278,679. The Notes shall be dated the date of delivery, shall finally mature March 1, 2010, and shall bear no interest. The principal of the Notes shall be payable in annual installments of One Hundred Dollars ($100) on June 1, 2006, June 1, 2007, June 1, 2008, and June 1, 2009, and with the entire outstanding principal amount payable in full on March 1, 2010, as set forth in the Notes and the Schedule Y attached to the Loan Agreement. The Notes shall be subject to redemption upon the written consent of the Authority and the Council, and upon payment of the redemption premium, if any, and otherwise in compliance with the Loan Agreement, so long as the Authority shall be the Registered

Owner of the Notes.

Section 2. All other provisions relating to the Bonds and the Notes and the text of the Bonds and the Notes shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby ratifies, approves and accepts the Loan Agreement, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the Loan Agreement by the Chairperson and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, approved and directed. The Issuer hereby affirms all covenants and representations made in the Loan Agreement and in the applications to the Council and the Authority. The price of the Bonds and the Notes shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer hereby appoints and designates United Bank, Inc., Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds and the Notes under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds and the Notes, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Commission"), to serve as Paying Agent for the Bonds and the Notes under the Resolution.

Section 6. The Issuer hereby appoints and designates United Bank, Inc., Parkersburg, West Virginia, to serve as the Depository Bank under the Resolution.

Section 7. On the Closing Date, the Issuer shall deliver the Series 2005 A Bonds, the Series 2005 B Bonds and the Series 2005 Notes to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

Section 8. Series 2005 Notes proceeds in the amount of $20,000 shall be used to pay costs of issuance of the Bonds and the Notes.

Section 9. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds and the Notes hereby and by the Resolution approved and provided for, to the end that the Bonds and the Notes may be delivered to the Authority pursuant to the Loan Agreement on or about September 27, 2005.

Section 10. The refunding of the Prior Notes and the financing thereof with proceeds of the Bonds and the Notes are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 11. The Issuer hereby determines to invest all moneys in the funds and accounts established by the Resolution held by the Depository Bank until expended, in money market accounts secured by a pledge of Government Obligations, and therefore, the Issuer hereby directs the Depository Bank to invest all moneys in such money market accounts until further directed in writing by the Issuer. Moneys in the Series 2005 A Bonds Sinking Fund, the Series 2005 A Bonds Reserve Account, the Series 2005 B Bonds Sinking Fund and the Series 2005 B Bonds Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 12. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 13. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 22nd day of September, 2005.

Chairperson

Member

Member

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Public Service Board of LUBECK PUBLIC SERVICE DISTRICT on the 22nd day of September, 2005.

Dated this 27th day of September, 2005.

[SEAL]

Secretary

09/16/05
101090/00309

WEST VIRGINIA
Water Development Authority
Celebrating 34 Years of Service 1974 - 2008

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

CONSENT TO ISSUANCE OF BONDS AND NOTES

In reliance upon a certificate of Philip R. Postlewait, Jr., CPA, an independent certified public accountant and an opinion of Jackson Kelly, PLLC, bond counsel, stating that the coverage and parity requirements have been met (copy attached), the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), in the original aggregate principal amount of $2,136,720 (the "Series 2010 A Bonds"), and the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), in the original aggregate principal amount of $4,141,959 (the "Series 2010 Notes"), by Lubeck Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2010 A Bonds and the Series 2010 Notes, with the Series 2010 A Bonds on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund) Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund, and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds"), and with the Series 2010 Notes junior and subordinate with respect to liens, pledge and source of and security for payment to the Prior Bonds and the Series 2010 A Bonds.

WITNESS my signature on this 25th day of February, 2010.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Carol A. Cummings
Authorized Representative

{C1671316.1}

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wwda.org

LUBECK PUBLIC SERVICE DISTRICT 3.1
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND),
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. LOAN AGREEMENT
13. SPECIMEN BOND AND NOTE
14. EXCHANGE FOR PRIOR NOTES
15. CONFLICTS OF INTEREST
16. COUNTERPARTS

On this 25th day of February, 2010, we, the undersigned CHAIRPERSON and the undersigned SECRETARY of the Public Service Board of Lubeck Public Service District (the "Issuer") and the undersigned ATTORNEY for the Issuer, hereby certify in connection with the Issuer's Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) and Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), all dated the date hereof (the "Series 2010 A Bonds," and the "Series 2010 Notes" or the "Notes"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Resolution duly adopted by the Issuer on February 11, 2010, the Supplemental Resolution duly adopted by the Issuer on February 11, 2010 (collectively, the "Resolution"), the loan agreements for the Bonds and the Notes by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), all dated February 25, 2010 (collectively, the "Loan Agreement").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds or the Notes, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds or the pledge and security of the proceeds of additional revenue bonds, refunding bonds, bond anticipation notes and grants for the Notes; nor affecting the validity of the Bonds or the Notes or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds or the Notes, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security for the Bonds and the Notes.

3. GOVERNMENTAL APPROVALS: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds and the Notes have been duly and timely obtained and remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval, execution and delivery of the Loan Agreement. The Issuer has met all conditions set forth in the Loan Agreement and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

Upon the refunding of the Prior Notes, there are outstanding obligations of the Issuer which will rank on a parity with the Series 2010 A Bonds as to liens, pledge and source of and security for payment, being the Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), dated March 9, 1999, issued in the original aggregate principal amount of $7,950,000 (the "Series 1999 A Bonds"); Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), dated March 9, 1999, issued in the original aggregate principal amount of $2,000,000 (the "Series 1999 B Bonds"); Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original aggregate principal amount of $7,879,443 (the "Series 2005 A Bonds"); and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), dated September 27, 2005, issued in the original

aggregate principal amount of $2,411,178 (the "Series 2005 B Bonds") (collectively, the "Prior Bonds").

The Issuer has obtained (i) the certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; and (ii) the written consent of the Registered Owners of the Prior Bonds to the issuance of the Series 2010 A Bonds on a parity with the Prior Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System. The Issuer is in compliance with all the covenants of the Prior Bonds and the Prior Resolution.

The Series 2010 Notes shall be issued junior and subordinate to the Prior Bonds and the Series 2010 A Bonds as to liens, pledge and source of and security for payment.

5. SIGNATURES AND DELIVERY: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds and the Notes for the Issuer. The seal impressed upon the Bonds and the Notes and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds and the Notes, consisting upon original issuance of a single Bond or Note for each series, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and the Notes and to be attested by his or her manual signature; the Registrar did officially authenticate, register and deliver the Bonds and the Notes to a representative of the Authority as the original purchaser of the Bonds and the Notes under the Loan Agreement.

6. PUBLIC SERVICE COMMISSION ORDER: The Issuer has received the Order of the Public Service Commission of West Virginia (the "PSC") entered on November 13, 2009, in Case No. 08-2016-PSWD-42A, approving the refunding of the Prior Notes through the issuance of the Bonds and the Notes. The time for appeal of such Order has expired prior to the date hereof. Such Order remains in full force and effect.

7. RATES: The rates for the System, as approved by the PSC Order entered on November 13, 2009, in Case No. 08-2016-PSWD-42A, are currently in effect. The time for appeal for such Order has expired prior to the date hereof and such Order remains in full force and effect.

8. INCUMBENCY AND OFFICIAL NAME: The proper corporate title of the Issuer is "Lubeck Public Service District." The Issuer is a public service district and public corporation duly created by The County Commission of Wood County and presently existing under the laws of, and a political subdivision of, the State of West Virginia in Wood County of said State. The governing body of the Issuer is its Public Service Board, consisting of three duly appointed, qualified and acting members, whose names and dates of commencement and termination of their current terms are as follows:

Name	Date of Commencement of Office	Date of Termination of Office
Roger D. Martin	March 18, 2004	December 31, 2013
John H. Sines	January 1, 2010	December 31, 2016
Jerry R. Martin	June 30, 2005	December 31, 2011

The duly elected or appointed officers of the Board for 2010 are as follows:

Jerry R. Martin	-	Chairperson
John H. Sines	-	Secretary
Roger D. Martin	-	Treasurer

The duly appointed and acting attorney for the Issuer is Richard Hayhurst, Esquire, of Parkersburg, West Virginia.

9. LAND AND RIGHTS-OF-WAY: All land, rights-of-way and easements necessary for the acquisition and construction of the Project and the operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions that would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties that may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Bonds or the Notes.

10. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds or the Notes and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes

and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability insurance, property damage insurance, standard hazard insurance, builder's risk insurance, flood insurance and business interruption insurance, where applicable, in accordance with the Resolution and the Loan Agreement. All insurance for the System required by the Resolution and the Loan Agreement are in full force and effect.

12. LOAN AGREEMENT: As of the date hereof, (i) the representations of the Issuer contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statements of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (iii) to the best knowledge of the undersigned, no event affecting the Issuer has occurred since the date of the Loan Agreement, which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information therein not misleading; and (iv) the Issuer is in compliance with the Loan Agreement.

13. SPECIMEN BOND AND NOTE: Attached hereto as Exhibit A are specimens of the Bonds and the Notes which, except as to execution and authentication, are identical in all respects with the Bonds and the Notes this day delivered to the Authority and being substantially in the form prescribed in the Resolution.

14. EXCHANGE FOR PRIOR NOTES: On the date hereof, the Issuer delivered the Series 2010 A Bond in the principal amount of $2,136,720 and the Series 2010 Note in the principal amount of $4,141,959, to the Authority in exchange for the Prior Notes. Attached hereto as Exhibit B is the final Schedule B, which accurately represents the cost of refunding the Prior Notes and the cost of financing related thereto.

15. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds or the Notes, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of Lubeck Public Service District as of the date first written above.

[SEAL]

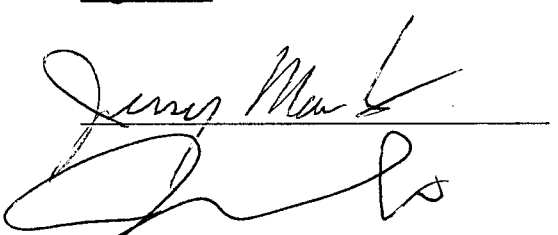
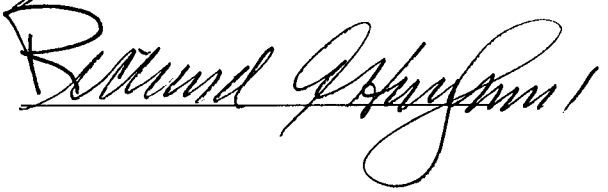
Signature	Official Title
	Chairperson
	Secretary
	Attorney

EXHIBIT A

See Specimen Bond and Note (Tab No. 14).

EXHIBIT B

SCHEDULE B

REFUNDING OF SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2005 (WEST VIRGINIA INFRASTRUCTURE FUND)

LUBECK PUBLIC SERVICE DISTRICT 3.2
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE AS TO USE OF PROCEEDS

On this 25th day of February, 2010, the undersigned Chairperson of the Public Service Board of Lubeck Public Service District in Wood County, West Virginia (the "Issuer"), being one of the officials of the Issuer duly charged with the responsibility for the issuance of $2,136,720 Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) and $4,141,959 Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, all dated February 25, 2010 (the "Bonds" and the "Notes" and individually, the "Series 2010 A Bonds" and the "Series 2010 Notes"), hereby certify as follows:

1. I am one of the officers of the Issuer duly charged with the responsibility of issuing the Bonds and the Notes. I am familiar with the facts, circumstances and estimates herein certified and duly authorized to execute and deliver this certificate on behalf of the Issuer. Capitalized terms used herein and not otherwise defined herein shall have the same meanings set forth in the Resolution duly adopted by the Issuer on February 11, 2010 (the "Resolution"), authorizing the Bonds and the Notes.

2. This certificate may be relied upon as the certificate of the Issuer.

3. This certificate is based upon facts, circumstances, estimates and expectations of the Issuer in existence on February 25, 2010, the date on which the Bonds and the Notes are being physically delivered in exchange for the Prior Notes and a portion of the proceeds of the Series 2010 Notes, and to the best of my knowledge and belief, the expectations of the Issuer set forth herein are reasonable.

4. In the Resolution pursuant to which the Bonds and the Notes are issued, the Issuer has covenanted that it shall not take, or permit or suffer to be taken, any action with respect to Issuer's use of the proceeds of the Bonds or the Notes which would cause any bonds, the interest on which is exempt from federal income taxation under Section 103(a) of the Internal Revenue Code of 1986, as amended, and the temporary and permanent regulations promulgated thereunder or under any predecessor thereto (collectively, the "Code"), issued by the West Virginia Water Development Authority (the "Authority") or the West Virginia Infrastructure and Jobs Development Council (the "Council"), as the case may be, from which the proceeds of the Bonds or the Notes are

derived, to lose their status as tax-exempt bonds. The Issuer hereby covenants to take all actions necessary to comply with such covenant.

5. The Series 2010 A Bonds were sold on February 25, 2010, to the Authority, pursuant to a loan agreement dated February 25, 2010, by and between the Issuer and the Authority on behalf of the Council, for an aggregate purchase price of $2,136,720 (100% of par). The Series 2010 Notes were sold on February 25, 2010, to the Authority, pursuant to a loan agreement dated February 25, 2010, by and between the Issuer and the Authority, on behalf of the Council, for an aggregate purchase price of $4,141,959 (100% of par). No accrued interest has been or will be paid on the Bonds and the Notes.

6. The Bonds and the Notes are being delivered simultaneously with the delivery of this Certificate and are issued for the purposes of (i) refunding the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes"), heretofore issued to pay a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance of the Bonds and the Notes and related costs. The construction of the Project was completed on June 1, 2000.

7. The total cost of refunding the Prior Notes, including the costs of issuance, is estimated at $6,278,679. Sources and uses are as follows:

SOURCES

Principal of Series 2010 A Bonds	$ 2,136,720
Principal of Series 2010 Notes	4,141,959
Issuer's Contribution	89,180
Total Sources	$ 6,278,679

USES

Refunding of Prior Notes	$ 6,278,679
Reserve Fund	73,680
Costs of Issuance	15,500
Total Uses	$ 6,278,679

8. Pursuant to Article V of the Resolution, the following special funds or accounts have been created:

(1) Revenue Fund;

(2) Renewal and Replacement Fund;

(3) Series 2010 A Bonds Sinking Fund;

(4) Series 2010 A Bonds Reserve Account; and

(5) Series 2010 Notes Payment Fund.

9. Pursuant to Article VI of the Resolution, the refunding of the Prior Notes will occur as follows:

(1) The Series 2010 A Bonds and the Series 2010 Notes will be delivered to the Authority in exchange for the Prior Notes, which exchange shall release and discharge the liens, pledges and encumbrances securing the Prior Notes.

(2) The Issuer's contribution in the amount of $89,180 will be applied to finance the Series 2010 A Bonds Reserve Account and to payment of costs of issuance of the Bonds and the Notes and related costs.

10. Moneys held in the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2010 A Bonds. All investment earnings on moneys in the Series 2010 A Bonds Reserve Account (if fully funded) shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payment, if any, due on the Series 2010 A Bonds, and then to the next ensuing principal payment due thereon.

11. Pursuant to Article IV of the Resolution, upon receipt of proceeds of any grants for the System, any sewerage system revenue bonds, refunding revenue bonds or any bond anticipation notes of the Issuer, an amount of the proceeds of such grants, revenue bonds, refunding bonds or bond anticipation notes sufficient to pay all or a portion of the entire outstanding principal of the Notes in full shall be deposited in the Series 2010 Notes Payment Fund. All moneys deposited in the Series 2010 Notes Payment Fund shall be immediately paid by the Commission to the Authority in full payment of the entire outstanding principal of the Notes and then to the Paying Agent for charges, if any, for services rendered.

12. The Issuer will take such steps as requested by the Authority to ensure that the Authority's bonds meet the requirements of the Code.

13. The Issuer does not expect to sell or otherwise dispose of the System in whole or in part prior to the last maturity date of the Bonds and the Notes.

14. The amount designated as costs of issuance of the Bonds and the Notes consists only of costs which are directly related to and necessary for the issuance of the Bonds and the Notes.

15. All property financed with the proceeds of the Prior Notes has been and will be owned and held by (or on behalf of) a qualified governmental unit.

16. The Project has been and will be operated solely for a public purpose as a local governmental activity of the Issuer.

17. The Bonds and the Notes are not federally guaranteed.

18. The Issuer has retained the right to amend the Resolution authorizing the issuance of the Bonds and the Notes if such amendment is necessary to assure that the Bonds and the Notes remain governmental or public purpose bonds.

19. The Issuer has either (a) funded the Series 2010 A Bonds Reserve Account at the maximum amount of principal and interest, if any, which will mature and become due on the Series 2010 A Bonds in the then current or any succeeding year with the proceeds of the Series 2010 A Bonds, or (b) created the Series 2010 A Bonds Reserve Account which will be funded with equal payments made on a monthly basis over a 10-year period until such Series 2010 A Bonds Reserve Account hold an amount equal to the maximum amount of principal and interest, if any, which will mature and become due on the Series 2010 A Bonds in the then current or any succeeding year. Moneys in the Series 2010 A Bonds Reserve Account and the Series 2010 A Bonds Sinking Fund will be used solely to pay principal of and interest, if any, on the Series 2010 A Bonds.

20. There are no other obligations of the Issuer which (a) are to be issued at substantially the same time as the Bonds and the Notes, (b) are to be sold pursuant to a common plan of financing together with the Bonds and the Notes and (c) will be paid out of substantially the same sources of funds or will have substantially the same claim to be paid out of substantially the same sources of funds as the Bonds and the Notes.

21. To the best of my knowledge, information and belief, there are no other facts, estimates and circumstances which would materially change the expectations herein expressed.

22. The Issuer will comply with instructions as may be provided by the Authority, at any time, regarding use and investment of proceeds of the Bonds and the Notes, rebates and rebate calculations.

23. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

WITNESS my signature as of the date first written above.

Chairperson

LUBECK PUBLIC SERVICE DISTRICT 3.3
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF SECRETARY
AS TO TRUTH AND ACCURACY OF DOCUMENTS DELIVERED

On this 25th day of February, 2010, the undersigned duly appointed Secretary of Lubeck Public Service District (the "Issuer") hereby certifies that the copies of the following documents being delivered in connection with the closing of the sale of the Lubeck Public Service District Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) and Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), are, as of the date hereof, true and accurate copies of the originals of those documents maintained on file with the Issuer and delivered in the transcript of proceedings, that said documents have been duly adopted or approved by the Public Service Board (the "Board") of the Issuer and that said documents are still in full force and effect as of the date hereof and have not been repealed, rescinded, superseded, amended or modified in any way unless the document effecting such repeal, rescission, supersedence, amendment or modification is also listed below:

1. Orders of The County Commission of Wood County Creating and Enlarging the Issuer.

2. Orders of The County Commission of Wood County Appointing the Members of the Board.

3. Oaths of Office of the Board Members.

4. Rules of Procedure.

5. Minutes of Current Year Organizational Meeting.

6. Public Service Commission Order.

7. Infrastructure Council Approval Letter.

8. Infrastructure Council Loan Agreements.

9. Bond and Note Resolution.

10. Supplemental Resolution.

11. Minutes of Board Meeting regarding Adoption of Bond and Note Resolution and Supplemental Resolution.

12. Affidavit of Publication regarding Notice of Meeting to Adopt Bond and Note Resolution and Supplemental Resolution.

13. 1999 Bond Resolution.

14. 2005 Bond Resolution.

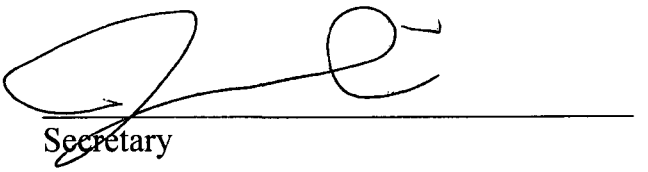
15. WDA Consent to Issuance of Bonds and Notes.

16. NPDES Permit.

17. Insurance Certificates.

WITNESS my signature and the official seal of the Issuer as of the date first written above.

LUBECK PUBLIC SERVICE DISTRICT



[SEAL] Secretary

PHILIP R. POSTLEWAIT, JR.
CERTIFIED PUBLIC ACCOUNTANT
P.O. BOX 1281
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE (304) 422-7444
FACSIMILE (304) 422-4991

February 25, 2010

LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2010 A
("SERIES 2010 A BONDS")
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NTOES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

Lubeck Public Service District
Washington, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

Ladies and Gentlemen:

I have reviewed the sewer rates of the Lubeck Public Service District (the "Issuer"), as approved by the order of the Public Service Commission of West Virginia entered November 13, 2009 in Case No., 08-2016-PSWD-42A, the current operating expenses and the current customer usage provided by the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the sewerage facilities of the Issuer (the System) and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in nay year for payment of principal of and interest on the Issuer's Sewerage System Revenue Bonds, Series 1999 (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund); Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund); and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds").

It is further my opinion that the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 2010 A Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2010 A Bonds will not

be less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Prior Bonds and the Series 2010 A Bonds.

Respectfully submitted,

Philip R. Postlewait, Jr.
Certified Public Accountant

WEST VIRGINIA INFRASTRUCTURE
SCHEDULE B
Lubeck Public Service District
9/27/2005 Bond Anticipation Note Refunding
$6,278,679

A. COST OF PROJECT	TOTAL	IJDC Loan/Grant	BAN
1 Construction			
Bond Anticipation Note Dated 9/27/2005	6,278,679.00	2,136,720.00	4,141,959.00
2 Technical Services - Thrasher			
a. Preliminary Engineering			
b. Design			
c. Engineering During Construction			
d. Inspection			
e. Special Services			
3 Legal & Fiscal			
a. Legal (S. Williams)			
4 Administrative			
5 Sites & Other Lands			
a. Land acquisition / ROW			
6 Contingency			
7 Miscellaneous			
a. WVDOH Inspection Fees			
b. Project Contingency (DOH Bond / Permits / Etc.)			
8 TOTAL of Lines 1 through 7	6,278,679.00	2,136,720.00	4,141,959.00
B. COST OF FINANCING			
9 Funded Reserve	73,680.00	73,680.00	
10 Other Costs			
a. Registrar fees	500.00	500.00	
b Bond Counsel	15,000.00	15,000.00	
11 Cost of Financing	89,180.00	89,180.00	0.00
12 TOTAL PROJECT COST line 8 plus line 11	6,367,859.00	2,225,900.00	4,141,959.00
C. SOURCES OF OTHER FUNDS			
13 Federal Grants			
14 State Loan			
15 Other Grants			
16 Any Other Source Lubeck PSD	89,180.00	89,180.00	
17 TOTAL Sources of Other Funds Sum of Lines 13 through 16	89,180.00	89,180.00	0.00
18 Size of Bond Issue (line 12minus Line 17)	6,278,679.00	2,136,720.00	4,141,959.00

Lubeck Public Service District

02/11/2010
Date

02/11/2010
Date

LUBECK PUBLIC SERVICE DISTRICT 3.5
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR BONDS AND NOTES

On this 25th day of February, 2010, the undersigned authorized representative of the West Virginia Water Development Authority (the "Authority"), for and on behalf of the Authority, hereby certifies as follows:

1. On the date hereof, in Charleston, West Virginia, the Authority received from Lubeck Public Service District(the "Issuer"), (i) the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), dated February 25, 2010, issued in the principal amount of $2,136,720, numbered AR-1, in the form of one bond, fully registered to the Authority; and (ii) the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), dated February 25, 2010, issued in the principal amount of $4,141,959, numbered R-1, in the form of one note, fully registered to the Authority (the "Notes").

2. At the time of such receipt of the Bonds and the Notes, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed thereon.

WITNESS my signature as of the date first written above.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Carol A. Cummings
Authorized Representative

LUBECK PUBLIC SERVICE DISTRICT 3.6
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

RECEIPT FOR NOTES PROCEEDS

On this 25th day of February, 2010, the undersigned Chairperson of Lubeck Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

1. On the date hereof, in Charleston, West Virginia, the Issuer delivered to the West Virginia Water Development Authority (the "Authority"): (i) the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), dated February 25, 2010, issued in the principal amount of $2,136,720, numbered AR-1, in the form of one bond, fully registered to the Authority; and (ii) the Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), dated February 25, 2010, issued in the principal amount of $4,141,959, numbered R-1, in the form of one note, fully registered to the Authority (the "Notes").

2. At the time of such delivery of the Bonds and the Notes, the Issuer received the canceled Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund), of the Issuer, dated September 27, 2005, issued in the original principal amount of $6,278,679, of which $6,278,279 is presently outstanding.

WITNESS my signature as of the date first written above.

LUBECK PUBLIC SERVICE DISTRICT

Chairperson

LUBECK PUBLIC SERVICE DISTRICT 3.7
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

REQUEST AND AUTHORIZATION TO
AUTHENTICATE, REGISTER AND DELIVER THE BONDS AND NOTES

United Bank, Inc.
Charleston, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the (i) $2,136,720 Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), in the form of one bond, numbered AR-1, dated February 25, 2010 (the "Bonds"); and (ii) $4,141,959 Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), in the form of one note, numbered R-1, dated February 25, 2010 (the "Notes"), of Lubeck Public Service District (the "Issuer"), authorized to be issued under and pursuant to a Resolution and a Supplemental Resolution duly adopted by the Issuer on February 11, 2010.

You are hereby requested and authorized to authenticate, register and deliver the Bonds and the Notes on behalf of the Issuer to the West Virginia Water Development Authority.

WITNESS our signatures on this 25th day of February, 2010.

LUBECK PUBLIC SERVICE DISTRICT

Chairperson

(SEAL)

Attest:

Secretary

LUBECK PUBLIC SERVICE DISTRICT 3.8
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 25th day of February, 2010, by and between LUBECK PUBLIC SERVICE DISTRICT, a public corporation (the "Issuer"), and UNITED BANK, INC., Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its (i) $2,136,720 Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), dated February 25, 2010, numbered AR-1, in the form of one bond, in fully registered form; and (ii) $4,141,959 Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), dated February 25, 2010, numbered R-1, in the form of one note, in fully registered form (collectively, the "Bonds"), pursuant to a Resolution and a Supplemental Resolution adopted by the Issuer on February 11, 2010 (collectively, the "Resolution");

WHEREAS, capitalized words and terms used in this Registrar's Agreement and not otherwise defined herein shall have the respective meanings given them in the Resolution, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Resolution provides for an appointment by the Issuer of a Registrar for the Bonds; and

WHEREAS, the Issuer desires to appoint, and by the Resolution and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Resolution and to take certain other actions hereinafter set forth;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. Upon the execution of this Registrar's Agreement by the Issuer and the Registrar and during the term hereof, the Registrar does accept and shall have and carry out the powers and duties of Registrar for the Bonds, all as set forth in the Resolution, such duties including, among other things, the duties to authenticate, register and deliver Bonds upon original issuance and when properly presented for exchange or

transfer, and shall do so with the intention of maintaining the exclusion of interest, if any, 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 Issuer advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the Issuer with appropriate records of all transactions carried out by it as Registrar and to furnish the Issuer with the names and specimen signatures of the Registrar's authorized officers for the purposes of acting as the Registrar and with such other information and reports as the Issuer may from time to time reasonably require.

3. The Registrar shall have no responsibility or liability for any action taken by it at the specific direction of the Issuer.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the Issuer hereby agrees to pay to the Registrar the compensation heretofore agreed by the parties and set forth in the attached invoice.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Resolution with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Resolution, the terms of the Resolution shall govern.

6. The Issuer and the Registrar each warrants and represents that it is duly authorized and empowered to execute and enter into this Registrar's Agreement and that neither such execution nor the performance of its duties hereunder or under the Resolution will violate any order, decree or agreement to which it is a party or by which it is bound.

7. This Registrar's Agreement may be terminated by either party upon 60 days' written notice sent by registered or certified mail to the other party, at the following respective address:

ISSUER:

Lubeck Public Service District
P.O. Box 700
Washington, WV 26181
Attention: Chairperson

REGISTRAR:

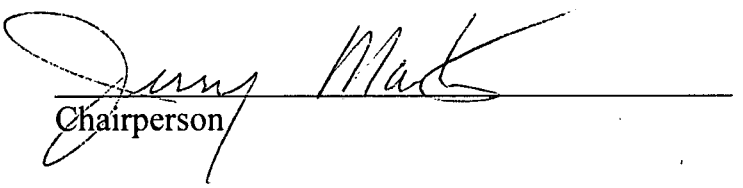
United Bank, Inc.
500 Virginia Street East
Charleston, WV 25301
Attention: Corporate Trust Department

The Issuer and the Registrar shall notify the other in writing of any change of address.

8. The Registrar is hereby requested and authorized to authenticate, register and deliver the Bonds in accordance with the Resolution.

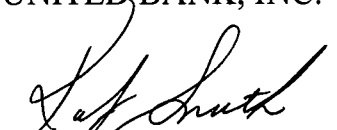
IN WITNESS WHEREOF, the parties hereto have respectively caused this Registrar's Agreement to be signed in their names and on their behalf, all as of the date first written above.

LUBECK PUBLIC SERVICE DISTRICT



Chairperson

UNITED BANK, INC.



Authorized Officer

EXHIBIT A

See Resolution (Tab No. 10)

See Supplemental Resolution (Tab No. 11)

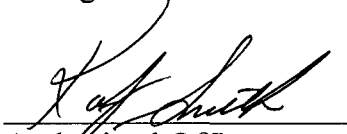
LUBECK PUBLIC SERVICE DISTRICT 3.9
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

CERTIFICATE OF REGISTRATION

UNITED BANK, INC., Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, (i) the single, fully registered Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), of Lubeck Public Service District (the "Issuer"), dated February 25, 2010, in the principal amount of $2,136,720, numbered AR-1; and (ii) the single, fully registered Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), of the Issuer, dated February 25, 2010, in the principal amount of $4,141,959, numbered R-1; were registered as to principal only, in the name of "West Virginia Water Development Authority" in the books of the Issuer kept for that purpose at our office, by a duly authorized officer on behalf of the Registrar.

WITNESS my signature on this 25th day of February, 2010.

UNITED BANK, INC.,
as Registrar



Authorized Officer

WEST VIRGINIA MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.10(A)
NEW ISSUE REPORT FORM
Date of Report: February 25, 2010

ISSUE: Lubeck Public Service District Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund)

ADDRESS: P.O. Box 700, Washington, WV 26181 COUNTY: Wood

PURPOSE OF ISSUE: New Money ___
Refunding: 2005 BAN Refunds issue(s) dated: September 27, 2005

ISSUE DATE: February 25, 2010 CLOSING DATE: February 25, 2010

ISSUE AMOUNT: $2,136,720 RATE: 0%

1st DEBT SERVICE DUE: June 1, 2010 1st PRINCIPAL DUE: June 1, 2010

1st DEBT SERVICE AMOUNT: $18,420 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC
Contact Person: Samme L. Gee, Esquire
Phone: (304) 340-1318

UNDERWRITERS COUNSEL: ___
Contact Person: ___
Phone: ___

CLOSING BANK: West Virginia Central Credit Union
Contact Person: Mike Tucker
Phone: (304) 485-4523

ESCROW TRUSTEE: ___
Contact Person: ___
Phone: ___

KNOWLEDGEABLE ISSUER CONTACT:
Contact Person: James Cox
Position: Manager
Phone: (304) 863-3341
E-Mail: lubeckpsd@casinternet.net

OTHER: WV Infrastructure & Jobs Development Council
Contact Person: Angela Chestnut, P.E.
Function: Executive Secretary
Phone: (304) 558-4607

DEPOSITS TO MBC AT CLOSE: ___
By X Wire X
___ Check ___

Accrued Interest: $___
Capitalized Interest: $___
Reserve Account: $ 73,680
Other: ___ $___

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ___ Wire ___ To Escrow Trustee: $___
___ Check ___ To Issuer: $___
___ IGT ___ To Cons. Invest. Fund $___
___ To Other: ___ $___

NOTES: ___

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: ___
Transfers Required: ___

WEST VIRGINIA MUNICIPAL BOND COMMISSION
1207 Quarrier Street, Suite 401
Charleston, WV 25301
(304) 558-3971

3.10(B)
NEW ISSUE REPORT FORM
Date of Report: February 25, 2010

ISSUE: Lubeck Public Service District Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund)

ADDRESS: P.O. Box 700, Washington, WV 26181 COUNTY: Wood

PURPOSE OF ISSUE: New Money ___
Refunding: 2005 BAN Refunds issue(s) dated: September 27, 2005

ISSUE DATE: February 25, 2010 CLOSING DATE: February 25, 2010

ISSUE AMOUNT: $4,141,959 RATE: 0%

1st DEBT SERVICE DUE: June 1, 2010 1st PRINCIPAL DUE: June 1, 2010

1st DEBT SERVICE AMOUNT: $100 PAYING AGENT: Municipal Bond Commission

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: ___
Contact Person: Samme L. Gee, Esquire Contact Person: ___
Phone: (304) 340-1318 Phone: ___

CLOSING BANK: West Virginia Central Credit Union ESCROW TRUSTEE: ___
Contact Person: Mike Tucker Contact Person: ___
Phone: (304) 485-4523 Phone: ___

KNOWLEDGEABLE ISSUER CONTACT: OTHER: WV Infrastructure & Jobs Development Council
Contact Person: James Cox Contact Person: Angela Chesnut, P.E.
Position: Manager Function: Executive Secretary
Phone: (304) 863-3341 Phone: (304) 558-4607
E-Mail: lubeckpsd@casinternet.net

DEPOSITS TO MBC AT CLOSE: ___ Accrued Interest: $___
___ Capitalized Interest: $___
By ___ Wire ___ Reserve Account: $___
___ Check ___ Other: ___ $___

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By ___ Wire ___ To Escrow Trustee: $___
___ Check ___ To Issuer: $___
___ IGT ___ To Cons. Invest. Fund $___
___ To Other: ___ $___

NOTES: ___

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: No reserve requirement.
Transfers Required: ___

west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, West Virginia 25304-2345
Phone: 304-926-0495
Fax: 304-926-0496

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

September 28, 2007

JAMES M. COX, MANAGER
LUBECK PSD
PO BOX 700
WASHINGTON, WV 26181

CERTIFIED RETURN RECEIPT REQUESTED

Dear Permittee:

Enclosed please find WV/NPDES Permit Number WV0032590 dated September 28, 2007.

Please note that a Discharge Monitoring Report (DMR) is to be completed and submitted to this Division each month. It is suggested that several copies of the enclosed DMR forms be made for your future use, as this Division does not supply permittees with DMR forms.

Finally note that copies of all future correspondence regarding the permit including copies of DMRs must be forwarded to the Field Inspector and Field Supervisor at the following address:

Department of Environmental Protection
Environmental Enforcement
2311 Ohio Ave.
Parkersburg, WV 26101

Also, please note the attachment to this permit which describes the annual permit fee requirement. Reissuance of your permit does not change the annual fee billing cycle.

If you have any questions, please contact Bhupinder Gill of this Division at (304) 926-0495.

Sincerely,

Yogesh Patel, P.E.
Assistant Director

YP:bg

Enclosures

Permit Number: WV0032590

Permittee: LUBECK PSD

cc: Bureau of Public Health
Construction Assistance
Env. Insp. Supv.
Env. Insp.
ORSANCO
Public Service Commission
US EPA

STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER AND WASTE MANAGEMENT
601 57TH STREET SE
CHARLESTON, WV 25304-2345

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
WATER POLLUTION CONTROL PERMIT

NPDES PERMIT NO.: WV0032590
SUBJECT: Sewage

ISSUE DATE: September 28, 2007
EFFECTIVE DATE : October 28, 2007
EXPIRATION DATE: September 27, 2012
SUPERSEDES: Permit No. WV0032590 dated October 15, 2002

LOCATION: WASHINGTON	Wood	Middle Ohio River 2
(City)	(County)	(Drainage Basin)

See the next page for a list of Outlets.

TO WHOM IT MAY CONCERN:

This is to certify that: LUBECK PSD
PO BOX 700
WASHINGTON, WV 26181

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:
to operate and maintain two (2) existing wastewater collection and treatment facilities which are further described as follows:

Outlet No.: 001
The wastewater collection system is comprised of approximately 69,000 linear feet of six (6) inch diameter gravity sewer line, 148,700 linear feet of eight (8) inch diameter gravity sewer line, 6,900 linear feet of 10 inch diameter gravity sewer line, 9,500 linear feet of 12 inch diameter gravity sewer line, 3,000 linear feet of 15 inch diameter gravity sewer line, 1,100 linear feet of 16 inch diameter gravity sewer line, 11,400 linear feet of 24 inch diameter gravity sewer line, 3,000 linear feet of 27 inch diameter gravity sewer line, 3,600 linear feet of 30 inch diameter gravity sewer line, approximately 1,000 manholes, approximately 100 cleanouts, 12 lift stations including two (2) main and 10 minor lift stations, 5,000 linear feet of two (2) inch diameter force main line, 2,800 linear feet of four (4) inch diameter force main line, 14,600 linear feet of 16 inch diameter force main line, 2,700 linear feet of 18 inch diameter force main line, and all requisite appurtenances.

The 1.5 million gallon per day [MGD] oxidation ditch wastewater treatment facility is comprised of a mechanical bar screen, a grit removal unit, two (2) 700,000 gallon oxidation ditches, two (2) 251,000 gallon clarifiers, an ultraviolet disinfection unit, a 270,000 gallon aerobic digester, a 1.5 meter belt filter press, a continuous effluent flow meter, and all requisite appurtenances.

Facilities are designed to serve a population equivalent of approximately 15,000 persons in the Lubeck Public Service District and its environs and discharge treated wastewater via Outlet No. 001 to the Ohio River (Mile Point 194.5).

Outlet No.: 002 - Hyview Terrace Subdivision
The wastewater collection system is comprised of approximately 2,065 linear feet of eight(8) inch diameter gravity sewer line, nine(9) manholes, and all requisite appurtenances.

The 20,000 gallon per day [GPD] extended aeration "Package Plant" is comprised of a bar screen, a 20,000 gallon aeration chamber, a 4,847 gallon clarifier, a 110 feet x 110 feet polishing pond, a chlorination and dechlorination unit, and all requisite appurtenances.

Facilities are to serve approximately 75 persons in the Hyview Terrace Subdivision and discharge treated wastewater via Outlet No. 002 to an unnamed tributary (0.3 miles from its mouth) of Vaughts Run of Sandy Creek of the Ohio River.

This permit is subject to the following terms and conditions :
The information submitted on and with Permit Application No. WV0032590, dated the 24th day of May 2007, and additional information received on August 9, 2007, are all hereby made terms and conditions of this Permit with like effect as if all such Permit Application information was set forth herein, and with other conditions set forth in Sections A, B, C, D, and Appendix A.

The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

Inspectable Unit	Latitude	Longitude	Receiving Stream	Dist. to Stream Mouth (in Mile)	Milepost
001	39°13'20"	81°41'19"	OHIO RV	N/A	194.5
002	39°15'00"	81°39'32"	Unnamed Tributary Of VAUGHTS RN	N/A	N/A
S01	39°13'20"	81°41'19"	N/A	N/A	N/A

A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations Quantity		Units		Other Units		Units	Monitoring Requirements Measurement Frequency	Sample Type
Flow,in Conduit or thru plant (Year Round) (ML-1) Refer to C.13. & C.14.	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mgd	Continuous	measured
BOD, 5-Day 20 Deg.C (Year Round) (ML-A) Refer ro C.23.	375.5 Avg. Monthly	751 Max. Daily	Lbs/Day	N/A	30 Avg. Monthly	60 Max. Daily	mg/l	1/month	8 hr comp
Total Suspended Solids (Year Round) (ML-A)	375.5 Avg. Monthly	751 Max. Daily	Lbs/Day	N/A	30 Avg. Monthly	60 Max. Daily	mg/l	1/month	8 hr comp
BOD, % Removal (Year Round) (ML-K) Refer to C.12.	N/A	N/A	N/A	85 Month. Avg. Min.	N/A	N/A	Percent	1/month	Calculated
Suspended Solids, % Removal (Year Round) (ML-K) Refer to C.12.	N/A	N/A	N/A	85 Month. Avg. Min.	N/A	N/A	Percent	1/month	Calculated
Coliform, Fecal (Year Round) (ML-A) Refer to C.15.	N/A	N/A	N/A	N/A	200 Mo. Geo. Mean	400 Max. Daily	Cnts/100ml	1/month	Grab
pH (Year Round) (ML-A)	N/A	N/A	N/A	6 Inst. Min.	N/A	9 Inst. Max.	S.U.	1/month	Grab
Ammonia Nitrogen (Year Round) (ML-A)	188 Avg. Monthly	376 Max. Daily	Lbs/Day	N/A	15 Avg. Monthly	30 Max. Daily	mg/l	1/month	8 hr comp
Nitrogen, Total (AS N) (Year Round) (ML-A) Refer to C.21.	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All effluent samples shall be collected at, or near as possible to, the point of discharge. Effluent BOD5 samples shall be properly labeled and then reseeded, in accordance with approved procedures, prior to analysis.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Units	Monitoring Requirements	
	Quantity		Units		Other Units			Measurement Frequency	Sample Type
Phosphorus, Total (Year Round) (ML-A)	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.21.									
Copper, Total Recoverable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Lead, Total Recoverable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Zinc, Total Recoverable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Arsenic, Total (As AS) (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Cadmium, Total Recoverable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Chromium, Hexavalent (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Cyanide, Weak Acid Dissociable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	Grab
Refer to C.17, C.18., C.19. & C.26.									
Mercury, Total (As Hg) (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	ug/l	1/quarter	Grab
Refer to C.17, C.18., C.19.									

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All effluent samples shall be collected at, or near as possible to, the point of discharge. Effluent BOD5 samples shall be properly labeled and then reseeded, in accordance with approved procedures, prior to analysis.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.001 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to discharge from Outlet Number(s) 001 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Monitoring Requirements		
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
Nickel, Total Recoverable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Silver, Total Recoverable (Year Round) (ML-A)	N/A	N/A	N/A	N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	mg/l	1/quarter	8 hr comp
Refer to C.17, C.18., C.19.									
Toxicity, Acute Daphnia (Year Round) (ML-A)	N/A	N/A	N/A	N/A	N/A	1 Max. Daily	TUa	1/year	8 hr comp
Refer to C.25.									
Toxicity, Acute Pimephales (Year Round) (ML-A)	N/A	N/A	N/A	N/A	N/A	1 Max. Daily	TUa	1/year	8 hr comp
Refer to C.25.									

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):

All effluent samples shall be collected at, or near as possible to, the point of discharge. Effluent BOD5 samples shall be properly labeled and then reseeded, in accordance with approved procedures, prior to analysis.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.002 DISCHARGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to discharge from Outlet Number(s) 002 (Sanitary)

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations							Monitoring Requirements	
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
Flow,in Conduit or thru plant (Year Round) (ML-1)	N/A	N/A	N/A	N/A	N/A	0.02 Max. Daily	mgd	1/quarter	measured
BOD, 5-Day 20 Deg.C (Year Round) (ML-B)	0.83 Avg. Monthly	1.66 Max. Daily	Lbs/Day	N/A	5 Avg. Monthly	10 Max. Daily	mg/l	1/quarter	Grab
Total Suspended Solids (Year Round) (ML-A)	5 Avg. Monthly	10 Max. Daily	Lbs/Day	N/A	30 Avg. Monthly	60 Max. Daily	mg/l	1/quarter	Grab
Coliform, Fecal (Year Round) (ML-A)	N/A	N/A	N/A	N/A	200 Mo. Geo. Mean	400 Max. Daily	Cnts/100ml	1/quarter	Grab
pH (Year Round) (ML-A)	N/A	N/A	N/A	6 Inst. Min.	N/A	9 Inst. Max.	S.U.	1/quarter	Grab
Dissolved Oxygen (Year Round) (ML-A)	N/A	N/A	N/A	6 Inst. Min.	N/A	N/A	mg/l	1/quarter	Grab
Ammonia Nitrogen (Year Round) (ML-A)	0.5 Avg. Monthly	1 Max. Daily	Lbs/Day	N/A	3 Avg. Monthly	6 Max. Daily	mg/l	1/quarter	Grab
Chlorine, Total Residual (Year Round) (ML-A)	N/A	N/A	N/A	N/A	9 Avg. Monthly	18 Max. Daily	ug/l	1/quarter	Grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s):
Effluent BOD5 samples shall be collected at a location immediately preceding disinfection. Other effluent samples shall be collected at or as near as possible to the point of discharge.

This discharge shall not cause violation of Title 47, Series 2, Section 3, of the West Virginia Legislative Rules issued pursuant to Chapter 22B, Article 3.

A.S01 SEWAGE SLUDGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to dispose sludge in accordance with the following from Outlet Number S01 (Sludge)

Effluent Characteristic	Quantity		Units	Limitations	Other Units		Units	Monitoring Requirements: Measurement Frequency	Monitoring Requirements: Sample Type
Coliform, Fecal (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	col/gr	1/quarter	Grab
pH (Year Round) (ML-+)	N/A	N/A	N/A	Rpt Only Min.	N/A	Rpt Only Max.	S.U.	1/quarter	Grab
Arsenic, Sludge Tot. Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	20 Max.	mg/kg	1/quarter	1/wk Comp
Cadmium,Sludge,Tot Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	39 Max.	mg/kg	1/quarter	1/wk Comp
Chromium, Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	1000 Max.	mg/kg	1/quarter	1/wk Comp
Copper,Sludge,Tot,Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	1500 Max.	mg/kg	1/quarter	1/wk Comp
Lead, Dry. Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	250 Max.	mg/kg	1/quarter	1/wk Comp
Mercury, Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	10 Max.	mg/kg	1/quarter	1/wk Comp
Molybdenum,Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	18 Max.	mg/kg	1/quarter	1/wk Comp

A.S01 SEWAGE SLUDGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to dispose sludge in accordance with the following from Outlet Number S01 (Sludge)

Effluent Characteristic	Quantity		Units	Limitations	Other Units		Units	Monitoring Requirements: Measurement Frequency	Monitoring Requirements: Sample Type
Nickel, Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	200 Max.	mg/kg	1/quarter	1/wk Comp
Selenium,Sludge,Tot. Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	36 Max.	mg/kg	1/quarter	1/wk Comp
Zinc, Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	2800 Max.	mg/kg	1/quarter	1/wk Comp
Calcium, Total (as Ca) (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp
Solids, Total Sludge Percent (Year Round) (ML-+)	N/A	N/A	N/A	Rpt Only Min.	Rpt Only Avg.	Rpt Only Max.	Percent	1/quarter	1/wk Comp
Potassium, Sludge Tot. Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp
Phosphorus,Sludge,Tot,Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp
Nitrogen, Ammonia Tot. Dry Wt. (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp
Nitrogen, Sludge Tot. Dry Wt (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp

A.S01 SEWAGE SLUDGE LIMITATIONS AND MONITORING REQUIREMENTS:

Final Limitations

Year Round

During the period beginning October 28, 2007 and lasting through midnight September 27, 2012 the permittee is authorized to dispose sludge in accordance with the following from Outlet Number S01 (Sludge)

Effluent Characteristic	Limitations							Monitoring Requirements	
	Quantity		Units		Other Units		Units	Measurement Frequency	Sample Type
Organic Nitrogen (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp
Magnesium,Tot (as Mg) (Year Round) (ML-+)	N/A	N/A	N/A	N/A	N/A	Rpt Only Max.	mg/kg	1/quarter	1/wk Comp

B. SCHEDULE OF COMPLIANCE

1. **The permitee shall achieve compliance with the provisions for waste treatment and the monitoring requirements specified in the permit in accordance with the following schedule :**

   Effective date of permit.

2. **Reports of compliance or non-compliance with, and progress reports on interim and final requirements contained in the above compliance schedule, if any, shall be postmarked no later than 14 days following each schedule date.**

Section C - Other Requirements

01. The herein-described treatment works, structures, electrical and mechanical equipment shall be adequately protected from physical damage by the maximum expected one hundred (100) year flood level and operability be maintained during the twenty-five (25) year flood level.

02. The entire sewage treatment facility shall be adequately protected by fencing.

03. The proper operation and maintenance of the listed sewage treatment facility shall be performed, or supervised, by a certified operator possessing at least a Class II certificate for Waste Water Treatment Plant Operators as issued by the State of West Virginia. The on-site attendance of this facility's Class II operator shall be determined and directed by the Bureau for Public Health, Office of Environmental Health Services.

04. The arithmetic mean of values for effluent samples collected in a seven consecutive day period shall not exceed 45.0 mg/l for BOD5 and TSS at Outlet No. 001 and 45 mg/l for TSS at Outlet No. 002. Furthermore, the permittee may submit mitigating factors as an attachment to its DMRs related to an excursion of this requirement. The Director may choose to take those mitigating factors into consideration in determining whether enforcement action is required.

05. The permittee shall submit each month according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration and/or quantities the values of the constituents listed in Section A analytically determined to be in the plant effluent(s). Additional information pertaining to effluent monitoring and reporting can be found in Section III of Appendix A.

06. The required DMRs should be received no later than 20 days following the end of the reporting period and be addressed to:

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Director                                  U. S. Environmental Protection Agency
Division of Water and Waste Management    Region III, Water Protection Division
601 57th Street SE                        NPDES Enforcement Branch (3WP42)
Charleston, West Virginia  25304          1650 Arch Street
Attention: Permitting Program             Philadelphia, PA  19103
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07. The permittee shall not use alternate DMRs without prior approval from this Agency.

08. For any noncompliance reports required to be submitted in writing by Appendix A, Part IV, of this Permit, a copy shall also be forwarded to the Environmental Protection Agency at the location specified in Section C.06.

09. The permittee shall not accept any new non-domestic discharges without first obtaining approval from the Director of the Division of Water and Waste Management as provided in Title 47, Series 10, Section 14 of the West Virginia Legislative Rules.

10. If any existing non-domestic discharge causes, or is suspected of causing, interference or pass through (as defined by 40 CFR 403.3) or otherwise violates any provision of 40 CFR 403, the permittee shall notify the Director of such violation or suspected violation.

11. If any existing non-domestic discharge is identified as being subject to Categorical Pretreatment Standard under 40 CFR Chapter 1, Subchapter N, and the discharge is not regulated by this permit, the permittee shall notify the Director of such identification.

12. Outlet No. 001:

    The permittee shall be required to test the sewage treatment plant's influent in order to calculate the percent (%) removal parameters for five (5) day Biochemical Oxygen Demand (BOD5) and Total Suspended Solids (TSS), as prescribed in Section A.001 of this Permit. Influent sampling requirements shall include the following:

    a. Percent removal shall be defined as a percentage expression of the removal efficiency across the wastewater treatment plant for a given pollutant parameter, as determined from the thirty day average values of the influent concentrations to the facility and the thirty day average effluent pollutant concentrations. Only influent and effluent samples taken concurrently as specified below shall be used for reporting.

    b. Influent BOD5 and TSS samples shall be collected using the permittee's established sampling schedule at least once per month (1/month) for the wastewater treatment facility.

    c. The permittee shall collect representative BOD and TSS influent samples using their established sampling procedures over an eight (8) hour period.

Section C - Other Requirements

12. d. Influent BOD5 and TSS sampling shall be performed over the same eight (8) hour time period as the effluent BOD5 and TSS sampling.

13. Outlet No. 001:

The average daily design flow of the Publicly Owned Treatment Works has been established at 1.5 million gallons per day [MGD]. When the average monthly effluent flow reported on Discharge Monitoring Reports reaches, or exceeds, 90 percent of the average design flow, 1.35 MGD during three (3) consecutive monthly periods, the permittee shall submit a Plan of Action to the Director. The Plan of Action shall present, at a minimum, an analysis of current hydraulic and organic loadings on the plant, an analysis of the future projected loadings, and a Schedule of Tasks to accomplish procedures necessary to maintain required treatment levels.

14. Outlet No. 001:

Any future collection system extensions projected to cause an increase in the wastewater flow, equal to, or greater than, 75,000 gallons per day (five (5) percent of average design flow) shall require the permittee to contact the Director to secure approval of the extension. After consideration of the complexity of the project, and the available treatment capacity of the facility, the Director may require the permittee to seek approval through Modification of the Permit.

15. Outlet No. 001:

Over the term of this permit, the permittee is allowed up to (one) 1 excursion of the maximum daily fecal coliform effluent limitation prescribed in Section A.001. The number of allowed excursions is based upon one (1) percent of the number of required self-monitoring events. Utilization of the excursion allowance is conditioned as follows.

a. Excursion allowances are afforded only to self-monitoring results and only when self-monitoring activities assess compliance with the maximum daily effluent limitation by analysis of an individual grab sample. No excursion allowance can be applied to analytical results obtained by representatives of the Director in the performance of their compliance assessment activities. Additionally, representatives of the Director may assess compliance with the maximum daily effluent limitation by collection and analysis of an individual grab sample.

b. The excursion allowance is contingent upon the permittee's prompt return to compliance as evidenced by the next required fecal coliform self-monitoring event.

c. The result for which an excursion allowance is claimed shall be included in the calculation of the average monthly effluent value.

d. Should an excursion allowance be utilized by the permittee, said allowance must be reported as an attachment to the Discharge Monitoring Report. This attachment should state that (1) an excursion allowance was taken in accordance with the conditions outlined above, (2) the total number of allowances taken to date during the term of this permit, and (3) the total number of allowances remaining during the term of this permit. The permittee shall maintain an on-site record of the excursion allowances utilized during the term of the permit.

16. The analytical test procedures, set forth in 40 CFR Part 136, prescribe colorimetric methods for certain parameters. The digestion process for the performance of total recoverable is not sufficient for the utilization of a colorimetric procedure. Therefore, colorimetric procedures shall not be acceptable for the analysis of parameters prescribed as total recoverable.

17. Effluent monitoring for the following pollutants shall be conducted using the most sensitive methods and detection levels commercially available and economically feasible. The following methods are to be used unless the permittee desires to use an EPA Approved Test Method with a listed lower method detection level. Regardless, it is recognized that detection levels can vary from analysis to analysis and that non-detect results at a different MDL for the specified test method would not constitute a permit violation.

Section C - Other Requirements

17.

Parameter	EPA Method No.	Method Detection Level (ug/l)
Copper, Total Recoverable	200.8	0.5
Lead, Total Recoverable	200.8	0.6
Zinc, Total Recoverable	200.8	1.8
Chromium, Dissolved Hexavalent	218.6	0.6
Arsenic, Total	200.8	1.4
Nickel, Total Recoverable	200.8	0.5
Cadmium, Total Recoverable	200.8	0.5
Silver, Total Recoverable	200.8	0.1
Mercury, Total*	245.7	0.0018
Mercury, Total*	1631	0.0002
Cyanide, Free	Refer to Section C.26	

*The permittee may use either Method 245.7 or Method 1631 for the analysis of mercury.

18. Any "not detected (ND)" results by the permittee must be "ND" at the method detection limit (MDL) for the test method used for that parameter and must be reported as less than the MDL used. The permittee may not report the result as zero, "ND", or report the result as less than a minimum level (ML), reporting limit (RL), or practical quantitation limit (PQL).

    When averaging values of analytical results for DMR reporting purposes for monthly averages, the permittee should use actual analytical results when these results are greater than or equal to the MDL and should use zero (0) when these results are less than the MDL. If all analytical results are non-detect at the MDL (<MDL), then the permittee should use the actual MDL in the calculation for averaging and report the result as less than the average calculation.

19. In incidences where a specific test method is not defined, the permittee shall utilize an EPA approved method with a method detection limit (MDL) sensitive enough to confirm compliance with the permit effluent limit for that parameter. If a MDL is not sensitive enough to confirm compliance, the most sensitive approved method must be used. If a more sensitive EPA approved method becomes available, that method shall be used. Should the current and/or new method not be sensitive enough to confirm compliance with the permitted effluent limit, analytical results reported as "not detected" at the MDL of the most sensitive method available will be deemed compliant for purposes of permit compliance. Results shall be reported on the Discharge Monitoring Reports as a numeric value less than the MDL.

20. Total Residual Chlorine (TRC) self-monitoring shall be performed in accordance with EPA approved or accepted analytical methods that are sensitive enough to determine compliance with applicable effluent limitations. Examples of acceptable methods which meet the MDL requirements are HACH ULR Chlorine Residual DPD Colormetric Method 10014 and HACH Chlorine Amperometric Back Titration Method 10025. Any Total Residual Chlorine sampling result reported as less than this MDL shall be presumed to confirm compliance for purposes of permit enforcement.

21. The Division has started to analyze the impacts of nutrients upon water quality and whether there is a need to establish nutrient water quality standards. Therefore, the Division shall impose effluent sampling for Total Nitrogen and Total Phosphorus in order to assist in this analysis.
    The Division recognizes there is not an EPA approved method to directly test for Total Nitrogen. The Total Nitrogen value to be reported on the permittee's Discharge Monitoring Reports (DMRs) shall be the sum of the following parameters:
    Total Kjeldahl Nitrogen
    Nitrate and Nitrite

22. Outlet No. 001:

    Because the permittee is using ultraviolet light as their disinfection method, no Total Residual Chlorine (TRC) effluent limitation shall currently be imposed. Should the permittee in the future decide to use chlorine as a disinfection method, a TRC effluent limitation shall be promulgated and imposed.

23. Outlet No. 001:

    All effluent samples shall be collected at, or near as possible to, the point of discharge. Effluent BOD5 samples shall be properly labeled and then reseeded, in accordance with approved procedures, prior to analysis.

Section C - Other Requirements

24. Unless otherwise authorized under Section A of this permit, any discharge from any point other than a permitted treatment outfall or permitted combined sewer system is expressly prohibited. In the event there is a prohibited discharge from a sewer conveyance system, the permittee shall follow the reporting requirements contained in Appendix A, Part IV, Section 2.
25. The permittee shall perform acute effluent toxicity testing in accordance with the following.
    a. The acute effluent toxicity testing prescribed, herein, shall be 48-hour static acute toxicity tests utilizing Pimephales Promelas fathead minnow and Ceriodaphnia Dubia as the test species.
    b. The acute toxicity testing shall be performed on an annual (1/year) basis. The first acute toxicity testing shall be carried out within 6 months from the effective date of the permit for Outlet 001. There shall be a minimum of three (3) months between sampling events.
    c. Eight-hour flow weighted composite samples of the effluent, as prescribed in Section A, shall be collected for testing.
    d. The dilution water should be a representative sample of the receiving water and should be obtained from a point as close as possible to but upstream or outside of the zone influenced by the effluent. If dilution water from the receiving stream is not suitable, some other uncontaminated, well-aerated surface or groundwater or commercially available media or reconstituted laboratory water can be used.
    e. Testing and reporting of the result shall be performed in accordance with 40 CFR 136 and must be submitted with the Discharge Monitoring Report (DMR) for the month following the completion of each test. LC50 shall be converted into Acute Toxic Units (TUa) using the following formula:

       TUa = 100/LC50
       For example, if LC50 is 100%, then TUa = 100/100 = 1.

       When the LC50 is greater than 100%, the permittee shall report the acute toxicity as less than 1 TUa. When the effluent demonstrates no toxicity (no organisms die), the permittee may report zero TUa.
    f. If acute effluent toxicity testing shows noncompliance with the specified limitations prescribed in Section A, the permittee shall immediately resample and test the effluent. This shall be performed within 30 days of the initial demonstration of noncompliance with the whole effluent toxicity discharge limitations prescribed herein. Copies of the retesting results shall be provided to the Director immediately upon completion of the test.

       If the second test shows compliance, acute effluent toxicity testing shall continue in accordance with the requirements, as prescribed herein. However, if the second test shows noncompliance, the Director shall impose further requirements, as may be necessary, in order to obtain compliance with the acute effluent toxicity discharge limitations.
    g. The Director may impose further requirements should the acute effluent toxicity testing results demonstrate noncompliance.
26. For the measurement of Free Cyanide, the permittee shall use the standard method for weak acid dissociable cyanide, as specified in the latest edition of Standard Methods.

Section D - Sewage Sludge Management Requirements

01. The permittee shall monitor and report monthly on the enclosed Sewage Sludge Management Report form the quality and quantity of sewage sludge produced. The required report shall be postmarked no later than 15 days following the end of the reporting period, or received no later than 20 days following the end of the reporting period, and be addressed to:

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Director
Division of Water and Waste Management
601 57th Street SE
Charleston, WV  25304
Attention:  Permitting Program
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02. The permittee shall provide copies of monthly reports to the county or regional solid waste authority in which the facility or land application site(s) is located.

03. The Sewage Sludge Monitoring Report form shall be submitted quarterly. The required report shall be postmarked no later than 15 days following the end of the reporting period, or received no later than 20 days following the end of the reporting period, and shall be addressed to:

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Director
Division of Water and Waste Management
601 57th Street SE
Charleston, WV  25304
Attention:  Permitting Program
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04. The following method(s) of sludge disposal shall be used for sewage sludge generated and/or processed at the permitted facility:

a) Land Application: Sewage sludge shall not be applied in a manner or in an amount that would cause the land application site(s) to exceed the annual, five (5) year cumulative, and lifetime loading rates as listed below. The following site(s) may be used for land application:

Land Application Site(s)	Maximum Annual Loading Rate(s) Tons/Acre	Five (5) Year Cumulative Loading Rate(s) Tons/Acre	Lifetime Loading Rate(s) Tons/Acre
Larry Westbrook			
Field 1	15.0	60.0	137

b) Landfill Disposal: Sewage sludge may also be disposed at a landfill by placing the sewage sludge in the landfill cell, provided that the landfill obtains approval from the Division of Water and Waste Management to allow the acceptance of sewage sludge from the permittee, and provided that the landfill(s) is/are identified in the permit application. Prior approval by the Division of Water amd Waste Management is required to change landfill disposal site(s).

05. Sewage sludge shall not be applied to land that has any of the following siting restrictions and/or location standards:

a) Land that is frozen, snow-covered, or known to be flooded on a regular basis unless the applicant can demonstrate to the Secretary that the land application will not cause runoff into streams or wetlands.

b) Land that is within 50 feet of surface water including any streams, springs, ponds, wetlands, or other collection points for surface water.

c) Land that is within 200 feet of drinking water supply wells or other personal water supply.

d) Land that is within 200 feet of an occupied dwelling.

e) Land that is within 50 feet of a federal or state highway.

f) Land that is within 100 feet of an adjacent property owner's property line.

g) Land that drains into a sinkhole.

h) Land that has been tested and determined to have a pH of less than 6.2 S.U., unless the pH is adjusted to 6.2 S.U. or greater.

i) Land that has a slope greater than 15 percent.

Section D - Sewage Sludge Management Requirements

05. j) Land that has a seasonal high groundwater table less than two (2) feet from the surface.

k) Land that has less than 6 inches of soil over bedrock or an impervious pan.

l) Land that contains soil with surface permeability of less than 0.6 inches/hour or greater than 6 inches/hour.

m) Land that, if sewage sludge was applied, is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act or its designated critical habitat.

n) Other land determined by the Secretary to be unsuitable of sewage sludge.

06. The following requirements concerning crops grown on land used for application of sewage sludge, the time requirements between application of sewage sludge and the harvesting of crops, and the restrictions on animal grazing and public access shall be met:

a) Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.

b) Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for four (4) months or longer prior to incorporation into the soil.

c) Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than four (4) months prior to incorporation into the soil.

d) Food crops (human consumption), feed crops (animal consumption), and fiber crops shall not be harvested for 30 days after application of sewage sludge.

e) Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.

f) Turf grown on land where sewage sludge is applied shall not be harvested for one (1) year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.

g) Public access to land with a high potential for public exposure shall be restricted for one year after application of sewage sludge.

h) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

07. Sewage sludge shall not be stored at a land application site for a period longer than one week; except, storage can be allowed for a period not to exceed three months when provisions, approved by the Director of the Division of Water and Waste Management of the Department, are made to prevent leachate runoff to the surface water and/or groundwater.

08. Sewage sludge shall only be land applied during the hours of daylight.

09. Sewage sludge which is land applied shall not contain excessive amounts of other solid waste materials, as defined in Title 33, Series 2, Section 2.34 of the Legislative Rules.

10. Areas used for processing, curing, and/or storage of sewage sludge shall be designed, constructed and operated to prevent release of contaminants to the groundwater and/or surface water.

11. The land application site(s) shall maintain the soil pH at a minimum of 6.2 S.U. for at least five (5) years from the date of application. The soil pH and soil nutrients shall be monitored once per year by obtaining a composite sample of each field utilized for land application during the previous year. The composite samples shall be made up of a minimum of four (4) aliquots taken at locations equally spaced through the land application site(s). The samples may be analyzed through the WVU Extension Service or by other certified laboratories.

12. All analyses performed on soils and sewage sludges shall be analyzed in accordance with analytical methods listed in 40 CFR Part 503.8 except that Nutrients may be analyzed in accordance with the most recently approved edition of Standard Methods and pH may be analyzed using EPA Method 9045A. Additionally, Fecal Coliform samples shall be prepared for analysis by using the method described in EPA 625R-92/013, Appendix F.

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13. Sewage sludge disposed in a landfill cell shall be a non-hazardous material as defined in 40 CFR Part 261.24 and a minimum of 20 percent solids. If the sewage sludge is not 20 percent solids, a bulking agent may be used to achieve 20 percent solids before the sewage sludge is weighed in at the landfill. Alternative sludge disposal methods at the landfill can be utilized upon obtaining prior written approval from the Director of the Division of Water and Waste Management.
14. If sewage sludge is used for revegetation, or spread in any other manner at the landfill, the sewage sludge shall meet all of the land application requirements. These requirements include vector attraction and pathogen reduction methods, heavy metals limits, and abiding by an approved loading rate based on soil analyses.
15. The following primary method for pathogen reduction shall apply to the sewage sludge or sewage sludge products:
    a) Lime Stabilization - Lime is added to maintain the sewage sludge pH above 12.0 S.U. for at least two (2) hours after the lime addition. The permittee shall record the pH of the sewage sludge at least twice, once upon addition of lime and once two (2) hours after addition.
    b) If compliance cannot be achieved using the primary method for pathogen reduction, then the permittee must provide a written notification to the Director prior to using a secondary method so long as the secondary method has been previously approved and contained in this permit. The permittee shall not dispose of sewage sludge until providing this written notification to the Director. The following secondary method for pathogen reduction shall apply to the sewage sludge or sewage sludge products:
        (1) Aerobic Digestion - Sewage sludge is agitated with air to maintain aerobic conditions. The mean cell residence time and temperature shall be between 40 days at 20 degrees Celsius and 60 days at 15 degrees Celsius. The permittee shall maintain logs documenting the mean cell residence time of the sewage sludge in the digester and the digester temperature, either by continuous measurements or two (2) manual measurements per day, at least one (1) per shift.
16. The following primary method for vector attraction reduction shall apply to the sewage sludge or sewage sludge products:
    a) Lime Stabilization - Lime is added to maintain the sewage sludge pH above 12.0 S.U. for two (2) hours and above 11.5 S.U. for 24 hours after the lime addition. The permittee shall record the pH of the sewage sludge at the 0, 2, and 24 hour intervals of treatment, and record the duration of time (hours) that the pH is maintained at or above the specified minimum levels.
    b) If compliance cannot be achieved using the primary method for vector attraction reduction, then the permittee must provide a written notification to the Director prior to using a secondary method so long as the secondary method has been previously approved and contained in this permit. The permittee shall not dispose of sewage sludge until providing this written notification to the Director. The following secondary method for vector attraction reduction shall apply to the sewage sludge or sewage sludge products:
        (1) Specific Oxygen Uptake Rate (SOUR) - Sewage sludge is considered stable enough for land application if the SOUR is equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius. The permittee shall take dissolved oxygen (DO) readings of the sewage sludge over a fifteen(15) minute period. Either the temperature (degrees Celsius) of the sample must be adjusted to 20 degrees Celsius or the SOUR of the sewage sludge is measured at the same temperature at which digestion is occurring in the treatment works and corrected to 20 degrees Celsius.
17. The permittee shall maintain all records and reports of all monitoring required by Section D of this permit for five (5) years after the date of monitoring or reporting. Records should include all sample results, including pathogen and vector attraction reduction monitoring; any landfill receipts; land application records, including site maps, the landowner agreement, soil sample results, daily and cumulative sludge loading rate information; copies of all required reports; and records of all data used to complete these reports.

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18. The appropriate composite sampling procedures shall be based upon the particular sludge processing methods used by the permittee. The composite sampling procedures for the various methods are described as follows:

    Belt Press or Vacuum Filter - During the week that the composite sample is obtained, the permittee shall take a minimum of three (3) grab samples during each day of the week that the dewatering system is in operation. These grab samples are to be mixed together and the final sample obtained from the composite. Samples should be collected at a point immediately after the dewatering operation.

    Liquid Sludge - During the week that the composite sample is obtained, the permittee shall take a representative grab sample from each truck load of sewage sludge hauled during that week. These grab samples are to be mixed together and the final sample obtained from the composite. Samples should be collected from the sewage sludge being pumped into the truck or as the sewage sludge is being discharged from the truck.

    Sewage Sludge Drying Beds - During the week that the composite sample is obtained, the permittee shall take a minimum of four (4) grab samples from each bed finished during that week. These grab samples are to be mixed together and the final sample obtained from the composite.

    Composting or Stock Piles - The permittee shall obtain a minimum of eight (8) grab samples from the pile of finished product. These grab samples are to be mixed together and the final sample obtained from the composite.

19. Written notification shall be given to the Director within five (5) days of the determination of any excursion(s) of the maximum allowable limitations for sewage sludge listed in Section A.S01 of this Permit. A written plan to identify and correct the excursion(s) must be submitted to the Director within sixty (60) days.

20. No single instantaneous grab sample of the final sewage sludge product shall exceed the values found below as listed in Table 2 of the West Virginia Sewage Sludge Management Regulations (Title 33, Series 2).

Metal	Concentration (mg/kg)
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

21. Sewage sludge shall not be land applied in a manner or in an amount that will cause the land application site(s) to exceed the maximum soil concentrations for the following heavy metals:

Parameter	Maximum Allowable Limitations For Soils (mg/kg)
Arsenic	13.0
Cadmium	2.4
Chromium	290.0
Copper	92.0
Lead	85.0
Mercury	2.4
Molybdenum	4.6
Nickel	83.0*
Selenium	10.0
Zinc	290.0**

* For sandy to silt loam soils with a permeability greater than 2.0 inches per hour, the maximum allowable soil concentration for nickel is 50.0 mg/kg.

** For those sites with greater than 30% legume species, the maximum allowable soil concentration for zinc is 130.0 mg/kg for sandy to silt loam soils with permeability greater than 2.0 inches per hour and 200.0 mg/kg for other soil types.

Section D - Sewage Sludge Management Requirements

22. All land application site(s) shall have new soil analyses performed for the metals listed in Section D.21 of this Permit when the cumulative loading reaches 50% of the assigned lifetime loading rate.

23. The sludge maximum allowable limitations identified in Section A.S01 of this permit are limitations established for sewage sludge that is being land applied. However, the maximum allowable limitations, for sewage sludge that is being taken to a designated landfill, are not applicable but the permittee remains subject to the sampling requirements and frequencies for sewage sludge that is disposed of in a landfill.

24. Should any landowner of a sludge land application site fail to comply with the terms and conditions pertaining to the landowner under an applicable landowner agreement, the permittee shall immediately contact said landowner and identify the violation causing the noncompliance with the said agreement. The permittee shall take all reasonable, escalating enforcement steps, up to and including disallowing further land application of sludge on the owner's site, in order to keep the landowner compliant with the terms and conditions of said land owner agreement. Also, the permittee shall immediately inform the Agency of any current noncompliance by the owner of a land application site by attaching a written summary of these violations, the cause of each violation, and the steps taken to prevent their recurrence with the submitted Sludge Monitoring Reports. Should the permittee take all of the enforcement steps outlined above, these actions may be used as a mitigating factor to any enforcement actions taken upon the permittee for the noncompliance by the land application site owners to the terms and conditions of Section D herein. However, the burden of proof in relation to the use of this mitigating factor shall lie exclusively upon the permittee. This condition shall not be used as a mitigating factor to any noncompliance associated with any other sections of this permit, even if said noncompliance is, in whole or in part, caused by the land application site owner.

The herein-described activity is to be extended, modified, added to, made, enlarged, acquired, constructed or installed, and operated, used and maintained strictly in accordance with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0032590; with the plan of maintenance and method of operation thereof submitted with such application(s); and with any applicable rules and regulations promulgated by the Environmental Quality Board and the Secretary of the Department of Environmental Protection.

Failure to comply with the terms and conditions of this permit, with the plans and specifications submitted with Permit Application No. WV0032590; and with the plan of maintenance and method of operation thereof submitted with such application(s) shall constitute grounds for the revocation or suspension of this permit and the invocation of all the enforcement procedures set forth in Chapter 22, Article 11, or 15 of the Code of West Virginia.

This permit is issued in accordance with the provisions of Chapter 22, Article 11 and 12 and/or 15 of the Code of West Virginia and is transferable under the terms of Section 11 of Article 11.

Lisa A. McClung, Director

Appendix A

I. MANAGEMENT CONDITIONS:

1. Duty to Comply

a) The permittee must comply with all conditions of this permit. Permit noncompliance constitutes a violation of the CWA and State Act and is grounds for enforcement action; for permit modification, revocation and reissuance, suspension or revocation; or for denial of a permit renewal application.

b) The permittee shall comply with all effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for a new permit at least 180 days prior to expiration of the permit.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

4. Permit Actions

This permit may be modified, revoked and reissued, suspended, or revoked for cause. The filing of a request by the permittee for permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

5. Property Rights

This permit does not convey any property rights of any sort or any exclusive privilege.

6. Signatory Requirements

All applications, reports, or information submitted to the Director shall be signed and certified as required in Title 47, Series 10 , Section 4.6 of the West Virginia Legislative Rules.

7. Transfers

This permit is not transferrable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

8. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable specified time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, suspending, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

9. Other Information

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a) Enter upon the permittee's premises in which an effluent source or activity is located, or where records must be kept under the conditions of this permit;

b) Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the State Act, any substances or parameters at any location.

11. Permit Modification

This permit may be modified, suspended, or revoked in whole or in part during its term in accordance with the provisions of Chapter 22-11-12 of the Code of West Virginia.

12. Water Quality

Subject to 47 WV CSR 10.3.4.a, the effluent or effluents covered by this permit are to be of such quality so as not to cause violation of applicable water quality standards adopted by the Environmental Quality Board.

13. Outlet Markers

A permanent marker at the establishment shall be posted in accordance with Title 47, Series 11, Section 9 of the West Virginia Legislative Rules.

14. Liabilities

a) Any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act is subject to a civil penalty not to exceed $25,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, 308 or 405 of the Clean Water Act is subject to a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than 1 year, or both.

b) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years, or by both.

c) Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 2 years, or by both.

d) Nothing in I.14 a), b), and c) shall be construed to limit or prohibit any other authority the Director may have under the State Water Pollution Control Act, Chapter 22, Article 11.

II. OPERATION AND MAINTENANCE:

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. Unless otherwise required by Federal or State law, this provision requires the operation of back-up auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of the permit. For domestic waste treatment facilities, waste treatment operators as classified by the WV Bureau of Public Health Laws, W. Va. Code Chapter 16-1, will be required except that in circumstances where the domestic waste treatment facility is receiving any type of industrial waste, the Director may require a more highly skilled operator.

2. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

3. Bypass

a) Definitions
   (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility; and
   (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of II.3.c) and II.3.d) of this permit.

c) (1) If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass;
   (2) If the permittee does not know in advance of the need for bypass, notice shall be submitted as required in IV.2.b) of this permit.

d) Prohibition of bypass
   (1) Bypass is permitted only under the following conditions, and the Director may take enforcement action against a permittee for a bypass, unless;
      (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
      (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
      (C) The permittee submitted notices as required under II.3.c) of this permit.
   (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in II.3.d.(1) of this permit.

4. Upset

a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitation if the requirements of II.4.c) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
   (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
   (2) The permitted facility was at the time being properly operated;
   (3) The permittee submitted notice of the upset as required in IV.2.b) of this permit.
   (4) The permittee complied with any remedial measures required under I.3. of this permit.

d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

5. Removed Substances

Where removed substances are not otherwise covered by the terms and conditions of this permit or other existing permit by the Director, any solids, sludges, filter backwash or other pollutants (removed in the course of treatment or control of wastewaters) and which are intended for disposal within the State, shall be disposed of only in a manner and at a site subject to the approval by the Director. If such substances are intended for disposal outside the State or for reuse, i.e., as a material used for making another product, which in turn has another use, the permittee shall notify the Director in writing of the proposed disposal or use of such substances, the identity of the prospective disposer or users, and the intended place of disposal or use, as appropriate.

III. MONITORING AND REPORTING

1. Representative Sampling

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

2. Reporting

a) Permittee shall submit, according to the enclosed format, a Discharge Monitoring Report (DMR) indicating in terms of concentration, and/or quantities, the values of the constituents listed in Part A analytically determined to be in the plant effluent(s). DMR submissions shall be made in accordance with the terms contained in Section C of this permit.

b) Enter reported average and maximum values under "Quantity" and "Concentration" in the units specified for each parameter, as appropriate.

c) Specify the number of analyzed samples that exceed the allowable permit conditions in the columns labeled "N.E." (i.e., number exceeding).

d) Specify frequency of analysis for each parameter as number of analyses/specified period (e.g.,3/month is equivalent to 3 analyses performed every calendar month). If continuous, enter "Cont.". The frequency listed on format is the minimum required.

3. Test Procedures

Samples shall be taken, preserved and analyzed in accordance with the latest edition of 40 CFR Part 136, unless other test procedures have been specified elsewhere in this permit.

4. Recording of Results

For each measurement or sample taken pursuant to the permit, the permittee shall record the following information.

a) The date, exact place, and time of sampling or measurement;

b) The date(s) analyses were performed;

c) The individual(s) who performed the sampling or measurement;

d) The individual(s) who performed the analyses; if a commercial laboratory is used, the name and address of the laboratory;

e) The analytical techniques or methods used, and

f) The results of such analyses. Information not required by the DMR form is not to be submitted to this agency, but is to be retained as required in III.6.

5. Additional Monitoring by Permittee

If the permittee monitors any pollutant at any monitoring point specified in this permit more frequently than required by this permit, using approved test procedures or others as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report Form. Such increased frequency shall also be indicated. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in the permit.

6. Records Retention

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

7. Definitions

a) "Daily discharge" means the discharge of a pollutant measured during a calendar day or within any specified period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

b) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

c) "Maximum daily discharge limitation" means the highest allowable daily discharge.

d) "Composite Sample" is a combination of individual samples obtained at regular intervals over a time period. Either the volume of each individual sample is proportional to discharge flow rates or the sampling interval (for constant volume samples) is proportional to the flow rates over the time period used to produce the composite. The maximum time period between individual samples shall be two hours.

e) "Grab Sample" is an individual sample collected in less than 15 minutes.

f) "is" = immersion stabilization - a calibrated device is immersed in the effluent stream until the reading is stabilized.

g) The "daily average temperature" means the arithmetic average of temperature measurements made on an hourly basis, or the mean value plot of the record of a continuous automated temperature recording instrument, either during a calendar month, or during the operating month if flows are of shorter duration.

h) The "daily maximum temperature" means the highest arithmetic average of the temperatures observed for any two (2) consecutive hours during a 24 hour day, or during the operating day if flows are of shorter duration.

i) The "monthly average fecal coliform" bacteria is the geometric average of all samples collected during the month.

j) "Measured Flow" means any method of liquid volume measurement, the accuracy of which has been previously demonstrated in engineering practice, or which a relationship to absolute volume has been obtained.

k) "Estimate" means to be based on a technical evaluation of the sources contributing to the discharge including, but not limited to pump capabilities, water meters and batch discharge volumes.

l) "Non-contact cooling water" means the water that is contained in a leak-free system, i.e., no contact with any gas, liquid, or solid other than the container for transport; the water shall have no net poundage addition of any pollutant over intake water levels, exclusive of approved anti-fouling agents.

IV. OTHER REPORTING

1. Reporting Spills and Accidental Discharges

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties established pursuant to Title 47, Series 11, Section 2 of the West Virginia Legislative Rules promulgated pursuant to Chapter 22, Article 11. Attached is a copy of the West Virginia Spill Alert System for use in complying with Title 47, Series 11, Section 2 of the Legislative rules as they pertain to the reporting of spills and accidental discharges.

2. Immediate Reporting

a) The permittee shall report any noncompliance which may endanger health or the environment immediately after becoming aware of the circumstances by using the Agency's designated spill alert telephone number. A written submission shall be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

b) The following shall also be reported immediately:
   (1) Any unanticipated bypass which exceeds any effluent limitation in the permit;
   (2) Any upset which exceeds any effluent limitation in the permit; and
   (3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported immediately. This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

c) The Director may waive the written report on a case-by-case basis if the oral report has been received in accordance with the above.

d) Compliance with the requirements of IV.2 of this section, shall not relieve a person of compliance with Title 47, Series 11, Section 2.

3. Reporting Requirements

a) Planned changes. The permittee shall give notice to the Director of any planned physical alterations or additions to the permitted facility which may affect the nature or quantity of the discharge. Notice is required when:
   (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in Section 13.7.b of Series 10, Title 47; or
   (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under IV.2 of this section.

b) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

c) In addition to the above reporting requirements, all existing manufacturing, commercial, and silvicultural discharges must notify the Director in writing as soon as they know or have reason to believe:
   (1) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, or any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
      (A) One hundred micrograms per liter (100 ug/l);
      (B) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitro phenol; and for 2-methyl 4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
      (C) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.9 of Series10, Title 47.
      (D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47;
   (2) That any activity has occurred or will occur which would result in any discharge (on a non-routine or infrequent basis) of a toxic which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
      (A) Five hundred micrograms per liter (500 ug/l);
      (B) One milligram per liter (1 mg/l) for antimony;
      (C) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Section 4.4.b.7 of Series 10, Title 47;
      (D) The level established by the Director in accordance with Section 6.3.g of Series 10, Title 47.
   (3) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a routine or frequent basis of that toxic pollutant at levels which exceed five times the detection limit for that pollutant under approved analytical procedure.
   (4) That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product of any toxic pollutant which was not reported in the permit application under Section 4.4.b.9 of Series 10, Title 47 and which will result in the discharge on a non-routine or infrequent basis of that toxic pollutant at levels which exceed ten times the detection limit for that pollutant under approved analytical procedure.

4. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under the above paragraphs at the time monitoring reports are submitted. The reports shall contain the information listed in IV.2.a). Should other applicable noncompliance reporting be required, these terms and conditions will be found in Section C of this permit.

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: 001
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity		Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
50050 (ML-1) RF-A	Reported												
Flow,in Conduit or thru plant Year Round	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mgd		Continuous	measured
00310 (ML-A) RF-A	Reported												
BOD, 5-Day 20 Deg.C Year Round	Permit Limits	375.5 Avg. Monthly	751 Max. Daily	Lbs/Day		N/A	30 Avg. Monthly	60 Max. Daily	N/A	mg/l		1/month	8 hr comp
00530 (ML-A) RF-A	Reported												
Total Suspended Solids Year Round	Permit Limits	375.5 Avg. Monthly	751 Max. Daily	Lbs/Day		N/A	30 Avg. Monthly	60 Max. Daily	N/A	mg/l		1/month	8 hr comp
81010 (ML-K) RF-A	Reported												
BOD, % Removal Year Round	Permit Limits	N/A	N/A			85 Month. Avg. Min.	N/A	N/A	N/A	Percent		1/month	Calculated
81011 (ML-K) RF-A	Reported												
Suspended Solids, % Removal Year Round	Permit Limits	N/A	N/A			85 Month. Avg. Min.	N/A	N/A	N/A	Percent		1/month	Calculated
74055 (ML-A) RF-A	Reported												
Coliform, Fecal Year Round	Permit Limits	N/A	N/A			N/A	200 Mo. Geo. Mean	400 Max. Daily	N/A	Cnts/100m		1/month	Grab
00400 (ML-A) RF-A	Reported												
pH Year Round	Permit Limits	N/A	N/A			6 Inst. Min.	N/A	9 Inst. Max.	N/A	S.U.		1/month	Grab
00610 (ML-A) RF-A	Reported												
Ammonia Nitrogen Year Round	Permit Limits	188 Avg. Monthly	376 Max. Daily	Lbs/Day		N/A	15 Avg. Monthly	30 Max. Daily	N/A	mg/l		1/month	8 hr comp

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: 001
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity *		Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
00600 (ML-A) RF-B	Reported												
Nitrogen, Total (AS N)	Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
00665 (ML-A) RF-B	Reported												
Phosphorus, Total	Permit Limits	Rpt Only Avg. Monthly	Rpt Only Max. Daily	Lbs/Day		N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
01119 (ML-A) RF-B	Reported												
Copper, Total Recoverable	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
01114 (ML-A) RF-B	Reported												
Lead, Total Recoverable	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
01094 (ML-A) RF-B	Reported												
Zinc, Total Recoverable	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
01002 (ML-A) RF-B	Reported												
Arsenic, Total (As AS)	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
01113 (ML-A) RF-B	Reported												
Cadmium, Total Recoverable	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													
01032 (ML-A) RF-B	Reported												
Chromium, Hexavalent	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily	N/A	mg/l		1/quarter	8 hr comp
Year Round													

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: 001
WASTELOAD FOR THE MONTH OF: _____

CERTIFIED LABORATORY NAME: _____
CERTIFIED LABORATORY ADDRESS: _____
INDIVIDUAL PERFORMING ANALYSIS: _____

Parameter		Quantity		Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
00718 (ML-A) RF-B Cyanide, Weak Acid Dissociable Year Round	Reported								N/A	mg/l		1/quarter	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
71900 (ML-A) RF-B Mercury, Total (As Hg) Year Round	Reported								N/A	ug/l		1/quarter	Grab
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
01074 (ML-A) RF-B Nickel, Total Recoverable Year Round	Reported								N/A	mg/l		1/quarter	8 hr comp
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
01079 (ML-A) RF-B Silver, Total Recoverable Year Round	Reported								N/A	mg/l		1/quarter	8 hr comp
	Permit Limits	N/A	N/A			N/A	Rpt Only Avg. Monthly	Rpt Only Max. Daily					
61425 (ML-A) RF-D Toxicity, Acute Daphnia Year Round	Reported								N/A	TUa		1/year	8 hr comp
	Permit Limits	N/A	N/A			N/A	N/A	1 Max. Daily					
61427 (ML-A) RF-D Toxicity, Acute Pimephales Year Round	Reported								N/A	TUa		1/year	8 hr comp
	Permit Limits	N/A	N/A			N/A	N/A	1 Max. Daily					
									N/A				
									N/A				

* CEL = Compliance Evaluation Level

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
SEWAGE SLUDGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: S01
RESULTS FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity		Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
74055 (ML-+) RF-B Coliform, Fecal Year Round	Reported								N/A	col/gr		1/quarter	Grab
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.					
00400 (ML-+) RF-B pH Year Round	Reported								N/A	S.U.		1/quarter	Grab
	Permit Limits	N/A	N/A			Rpt Only Min.	N/A	Rpt Only Max.					
61521 (ML-+) RF-B Arsenic, Sludge Tot. Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	20 Max.					
78476 (ML-+) RF-B Cadmium,Sludge,Tot Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	39 Max.					
78473 (ML-+) RF-B Chromium, Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	1000 Max.					
78475 (ML-+) RF-B Copper,Sludge,Tot,Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	1500 Max.					
78468 (ML-+) RF-B Lead, Dry. Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	250 Max.					
78471 (ML-+) RF-B Mercury, Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	10 Max.					

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer

Title of Officer

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Date Completed

Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
SEWAGE SLUDGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: S01
RESULTS FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity		Units	N.E.	Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
78465 (ML-+) RF-B Molybdenum,Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	18 Max.					
78469 (ML-+) RF-B Nickel, Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	200 Max.					
49031 (ML-+) RF-B Selenium,Sludge,Tot. Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	36 Max.					
78467 (ML-+) RF-B Zinc, Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	2800 Max.					
00916 (ML-+) RF-B Calcium, Total (as Ca) Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.					
61553 (ML-+) RF-B Solids, Total Sludge Percent Year Round	Reported								N/A	Percent		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			Rpt Only Min.	Rpt Only Avg.	Rpt Only Max.					
78472 (ML-+) RF-B Potassium, Sludge Tot. Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.					
78478 (ML-+) RF-B Phosphorus,Sludge,Tot,Dry Wt. Year Round	Reported								N/A	mg/kg		1/quarter	1/wk Comp
	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.					

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
SEWAGE SLUDGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: S01
RESULTS FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity				Other Units			CEL*	Units	N.E.	Measurement Frequency	Sample Type
				Units	N.E.								
82294 (ML-+) RF-B	Reported												
Nitrogen, Ammonia Tot. Dry Wt.	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.	N/A	mg/kg		1/quarter	1/wk Comp
Year Round													
78470 (ML-+) RF-B	Reported												
Nitrogen, Sludge Tot. Dry Wt	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.	N/A	mg/kg		1/quarter	1/wk Comp
Year Round													
51020 (ML-+) RF-B	Reported												
Organic Nitrogen	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.	N/A	mg/kg		1/quarter	1/wk Comp
Year Round													
00927 (ML-+) RF-B	Reported												
Magnesium,Tot (as Mg)	Permit Limits	N/A	N/A			N/A	N/A	Rpt Only Max.	N/A	mg/kg		1/quarter	1/wk Comp
Year Round													
									N/A				
									N/A				
									N/A				
									N/A				

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer	I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.	Date Completed
Title of Officer		Signature of Principal Executive Officer or Authorized Agent

SEWAGE SLUDGE MANAGEMENT REPORT

FACILITY NAME: (LUBECK PSD)LUBECK PSD
ADDRESS: P.O. Box 700, Washington, WV 26181

DESIGN FLOW: 1,500,000 gpd
YEAR: _____
MONTH: _____

PERMIT NUMBER: WV0032590
MONITORING FREQUENCY: _____
LAST SAMPLE DATE: _____

Total Sludge Generated this Report Period: (Dry Tons) _____
Sludge Generated this Year to Date: (Dry Tons) _____
Sewage Sludge/Domestic Septage Received: (Gallons) _____

Disposal Method: _____
Amount Disposed: (Dry tons) _____
Name of Landfill or Compost Facility : _____

Percent Solids: Average: _____ Measurement Frequency: _____ Number of Loads Landfilled With Less Than 20% Solids: _____

Pathogen Reduction Method:

- ☐ Not Applicable. No land application of sewage sludge.
- ☐ Fecal Coliform Monitoring: Geometric mean of last seven samples is _____ col/dry gram
  Sample results for this report period were: _____ col/dry gram _____ col/dry gram
- ☐ Limit Addition: pH of sample two hours after lime addition: Range _____
- ☐ Aerobic Digestion: Average detention time for this report period:(days) _____
  Digester Temperature: Average _____ Range _____
- ☐ Anaerobic Digestion: Average detention time for this report period:(days) _____
  Digester Temperature: Average _____ Range _____
- ☐ Other: (Provide Description) _____

NE: Number of loads land applied which did not fully meet pathogen reduction requirements: _____

Vector Attraction Reduction Method:

- ☐ Not Applicable. No land application of sewage sludge.
- ☐ 38% Volatile Solids Reduction: Average volatile solids reduction for the month of _____ was _____ percent
- ☐ SOUR: The average Specific Oxygen Uptake rate for the month of _____ was _____ mg Oxygen/hour/dry gram
- ☐ Lime Addition: pH of sample two hours after lime addition: Range _____
  pH of sample 24 hours after lime addition: Range _____
- ☐ Other: (Provide Description) _____

NE: Number of loads land applied which did not fully meet vector attraction reduction requirements: _____

I certify under penalty of law that the management practices, vector attraction reduction requirements, and the pathogen reduction requirements of Federal regulations 40 CFR Part 503 and State Regulation Title 33, Series 2 have been met for all sewage sludge land applied during this report period. This determination has been made under my supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate information used to determine these requirements have been met. I also certify that this document and all the attachments were prepared under my direction or supervision, and that the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are penalties for false certification including the possibility of fine and imprisonment.

OFFICIAL _____ TITLE _____

SIGNATURE _____ DATE _____

Additional Comments or Explanation:

WRD 2A-82

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE MONITORING REPORT

Final Limitations
Year Round

FACILITY NAME: (LUBECK PSD) LUBECK PSD
LOCATION OF FACILITY: WASHINGTON; Wood County
PERMIT NO.: WV0032590 OUTLET NO.: 002
WASTELOAD FOR THE MONTH OF:

CERTIFIED LABORATORY NAME:
CERTIFIED LABORATORY ADDRESS:
INDIVIDUAL PERFORMING ANALYSIS:

Parameter		Quantity		Units	N.E.	Other Units			CEL*	Units	N.E	Measurement Frequency	Sample Type
50050 (ML-1) RF-B	Reported												
Flow,in Conduit or thru plant Year Round	Permit Limits	N/A	N/A			N/A	N/A	0.02 Max. Daily	N/A	mgd		1/quarter	measured
00310 (ML-B) RF-B	Reported												
BOD, 5-Day 20 Deg.C Year Round	Permit Limits	0.83 Avg. Monthly	1.66 Max. Daily	Lbs/Day		N/A	5 Avg. Monthly	10 Max. Daily	N/A	mg/l		1/quarter	Grab
00530 (ML-A) RF-B	Reported												
Total Suspended Solids Year Round	Permit Limits	5 Avg. Monthly	10 Max. Daily	Lbs/Day		N/A	30 Avg. Monthly	60 Max. Daily	N/A	mg/l		1/quarter	Grab
74055 (ML-A) RF-B	Reported												
Coliform, Fecal Year Round	Permit Limits	N/A	N/A			N/A	200 Mo. Geo. Mean	400 Max. Daily	N/A	Cnts/100m		1/quarter	Grab
00400 (ML-A) RF-B	Reported												
pH Year Round	Permit Limits	N/A	N/A			6 Inst. Min.	N/A	9 Inst. Max.	N/A	S.U.		1/quarter	Grab
00300 (ML-A) RF-B	Reported												
Dissolved Oxygen Year Round	Permit Limits	N/A	N/A			6 Inst. Min.	N/A	N/A	N/A	mg/l		1/quarter	Grab
00610 (ML-A) RF-B	Reported												
Ammonia Nitrogen Year Round	Permit Limits	0.5 Avg. Monthly	1 Max. Daily	Lbs/Day		N/A	3 Avg. Monthly	6 Max. Daily	N/A	mg/l		1/quarter	Grab
50060 (ML-A) RF-B	Reported												
Chlorine, Total Residual Year Round	Permit Limits	N/A	N/A			N/A	9 Avg. Monthly	18 Max. Daily	100	ug/l		1/quarter	Grab

* CEL = Compliance Evaluation Level

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Title of Officer		Signature of Principal Executive Officer or Authorized Agent

EMERGENCY RESPONSE SPILL ALERT SYSTEM
WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

REQUIREMENTS:

Title 47, Series 11, Section 2 of the West Virginia Legislative Rules, Environmental Protection, Water Resources - Waste Management, Effective July 1, 1994.

RESPONSIBILITY FOR REPORTING:

Each and every person who may cause or be responsible for any spill or accidental discharge of pollutants into the waters of the State shall give immediate notification to the Division of Water and Waste Management's Emergency Notification Number, 1-800-642-3074. Such notification shall set forth insofar as possible and as soon thereafter as practical the time and place of such spill or discharge, type or types and quantity or quantities of the material or materials therein, action or actions taken to stop such spill or discharge and to minimize the polluting effect thereof, the measure or measures taken or to be taken in order to prevent a recurrence of any such spill or discharge and such additional information as may be requested by the Division of Water and Waste Management. This also applies to spills to the waters of the State resulting from accidents to common carriers by highway, rail and water.

It shall be the responsibility of each industrial establishment or other entity discharging directly to a stream to have available the following information pertaining to those substances that are employed or handled in its operation in sufficiently large amounts as to constitute a hazard in case of an accidental spill or discharge into a public stream:

(1) Potential toxicity in water to man, animals and aquatic life;
(2) Details on analytical procedures for the quantitative estimation of such substances in water and
(3) Suggestions on safeguards or other precautionary measures to nullify the toxic effects of a substance once it has gotten into a stream.

Failure to furnish such information as required by Section 14, Article 11, Chapter 22, Code of West Virginia may be punishable under Section 24, Article 11, Chapter 22, and/or Section 22, Article 11, Chapter 22, Code of West Virginia.

It shall be the responsibility of any person who causes or contributes in any way to the spill or accidental discharge of any pollutant or pollutants into State waters to immediately take any and all measures necessary to contain such spill or discharge. It shall further be the responsibility of such person to take any and all measures necessary to clean-up, remove and otherwise render such spill or discharge harmless to the waters of the State.

When the Director determines it necessary for the effective containment and abatement of spills and accidental discharges, the Director may require the person or persons responsible for such spill or discharge to monitor affected waters in a manner prescribed by the Director until the possibility of any adverse effect on the waters of the State no longer exists.

VOLUNTARY REPORTING BY LAW OFFICERS, U. S. COAST GUARD, LOCK MASTERS AND OTHERS:

In cases involving river and highway accidents where the responsible party may or may not be available to report the incident, law officers, U. S. Coast Guard, Lock Masters and other interested person(s) should make the report.

WHO TO CONTACT:
Notify the following number: **1-800-642-3074**

INFORMATION NEEDED:

- Source of spill or discharge
- Location of incident
- Time of incident
- Material spilled or discharged
- Amount spilled or discharged
- Toxicity of material spilled or discharged
- Personnel at the scene
- Actions initiated
- Shipper/Manufacturer identification
- Railcar/Truck identification number
- Container type

NOTICE TO PERMITTEES

The 1999 regular session of the West Virginia legislature revised the Water Pollution Control Act, Chapter 22, Article 11, Section 10 of the Code of West Virginia relating to fees associated with permits. This section of the Code requires all holders of a State water pollution control permit or a national pollutant discharge elimination system permit to be assessed an annual permit fee, based upon rules promulgated by the Secretary of the Department of Environmental Protection. The Secretary has promulgated a final rule in accordance with the code revision to this effect and these rules were effective May 4, 2000. The rules establish an annual permit fee based upon the relative potential to degrade the waters of the State which, in most instances, relate to volume of discharge. However, for sewage facilities, the annual permit fee is based upon the number of customers served by the facility. You may contact the Secretary of State's Office, State Capitol Building, Charleston, WV 25305, to obtain a copy of the rules. The reference is Title 47, Legislative Rules, Department of Environmental Protection, Division of Water Resources, Series 26 Water Pollution Control Permit Fee Schedules.

Based upon the volume of discharge for which your facility is currently permitted, the number of customers served by your facility or for the category you fall within, pursuant to Section 7 of Title 47, Series 26, your annual permit fee is **$750.00**. This fee is due no later than the anniversary date of permit issuance in each year of the term of the permit or in the case of coverage under a general permit, the fee is due no later than the anniversary date of your coverage under the general permit. **You will be invoiced by this agency at the appropriate time for the fee.** Failure to submit the annual fee within ninety(90) days of the due date will render your permit void upon the date you are mailed a certified written notice to that effect.

RIGHT OF APPEAL

Notice is hereby given of your right to appeal the terms and conditions of this permit which you are aggrieved by to the Environmental Quality Board by filing a NOTICE OF APPEAL on the form prescribed by such Board for this purpose, with the Board, in accordance with the provisions of Section 21, Article 11, Chapter 22 of the Code of West Virginia within thirty (30) days after the date of receipt of the above permit.

* 7 C O O 2 GP09312894 10769 * M: 05 I: 000 T: 001 CC: 000 0559

INTRODUCTION

TRAVELERS

This policy protects against a variety of losses. There are also some restrictions. We've written this policy in plain, easy-to-understand English. We encourage you to read it carefully to determine what is and what is not covered, as well as the rights and duties of those protected.

Policy Number: GP09312894

SAN ANTONIO
SUITE 105
2700 N E LOOP 410
SAN ANTONIO TX 78217

In return for your premium, we'll provide the protection stated in this policy.

We, us, our, and ours mean **St. Paul Fire and Marine Insurance Company**. We're a capital stock company located in St. Paul, Minnesota.

The words you, your, and yours mean the insured named here, which is a

WATER/SEWER DISTRICT
LUBECK PUBLIC SERVICE DISTRICT
P.O. BOX 700
WASHINGTON WV 26181-0700

Your policy is composed of General Rules, an explanation of What To Do If You Have A Loss, one or more Coverage Summaries, and one or more Insuring Agreements explaining your coverage. It may also include one or more endorsements. Endorsements are documents that change your policy. The Policy Forms List shows all the forms included when this policy begins.

One of our authorized representatives will also countersign the policy.

This policy will begin on 07/01/09 and will continue until 07/01/10

Your former policy number is automatically replaced: GP09312894

Your premium for the policy period shown is: $51,848.00

However, please refer to the Premiums section of the General Rules to see how final premiums are determined.

INCLUDES UMBRELLA EXCESS PREMIUM
WEST VIRGINIA FIRE AND
CASUALTY SURCHARGE $272.12

Our authorized representative is:
4701292
WELLS FARGO INS OF WV
P.O. BOX 1551
CHARLESTON WV 25326-1551

Brian MacLean
President

Authorized Representative Date

Secretary

Processing Date 07/06/09 19:31 001

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POLICY FORM LIST

The St Paul

Here's a list of all forms included in your policy, on the date shown below. These forms are listed in the same order as they appear in your policy.

Title	Form Number	Edition Date
Disclosure Notice Terrorism Risk Insurance Act Of 2002	D0100	01-08
PSS West Virginia Preservation Of Governmental Immunity Endorsement	D0143	12-07
Introduction - St. Paul Fire And Marine Insurance Company	40800	05-87
Policy Form List	40705	05-84
General Rules	40701	08-03
West Virginia Required Endorsement	40545	09-06
Public Entity General Liability Protection Commercial General Liability Protection Reference Endorsement	D0020	10-97
Commercial Auto Required Endorsement - West Virginia	44352	10-04
What To Do If You Have A Loss	40814	08-03
CAP On Losses From Certified Acts Of Terrorism Endorsement	D0144	01-08
Property Protection Coverage Summary	42563	04-06
Property Protection Coverage Summary Continued - Equipment Breakdown Coverage	F0231	04-99
Travelers Property Protection	42700	04-06
PSS Property Protection Additional Benefits Coverage Summary	F0122	07-01
Equipment Breakdown Endorsement	F0230	04-99
Public Sector Services Public Entity Property Endorsement	F0102	04-06
Mold Or Bacteria Exclusion Endorsement With Limited Additional Coverages	F0286	10-02
Virus Or Bacteria Exclusion Endorsement	F0459	03-07
Contractor's Equipment Protection Coverage Summary	I0006	11-95
Contractor's Equipment Protection	I0005	11-95
Who We'll Pay For Loss	42013	06-82
Public Entity General Liability Protection Coverage Summary	G0208	10-97
Public Entity General Liability Protection	G0209	10-02
PSS Excluded Operations And Premises Endorsement	G0540	10-02
Unsolicited Communication Exclusion Endorsement	G0692	08-04
PSS Injury Or Damage Deductibles Endorsement	47371	10-02
Lead Exclusion Endorsement	G0680	07-04
Medical Expenses Exclusion Endorsement	G0167	06-96
Mobile Equipment Subject To Compulsory Or Financial Responsibility Insurance Laws Or Scheduled Under Your Auto...	G0719	12-04
Mold, Other Fungi, Or Bacteria Exclusion Endorsement	G0492	04-02
Stop-Gap Employers Liability Protection Coverage Summary	L0304	06-99
Stop-Gap Employers Liability Protection	L0303	06-99
West Virginia Stop-Gap Employers Liability Broadening Endorsement	L0306	06-05
Employee Benefit Plans Administration Liability Protection -Claims-Made Coverage Summary	43532	01-96
Employee Benefit Plans Administration Liability Protection -Claims-Made	43475	01-96
Employment-Related Practices Exclusion Endorsement -	L0436	09-01

Name of Insured LUBECK PUBLIC SERVICE DISTRICT **Policy Number** GP09312894 **Effective Date** **Processing Date** 07/06/09 19:31 001

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Employee Benefit Plans Administration Liability		
Public Entity Employment Practices Liability Protection - Claims-Made Coverage Summary	L0397	07-06
Public Entity Employment Practices Liability Protection - Claims-Made	L0394	07-06
Public Entity Management Liability Protection - Claims-Made Coverage Summary	47336	01-01
Public Entity Management Liability Protection - Claims-Made	47279	07-06
Auto Coverage Summary	44460	04-91
Auto Coverage Summary - Continued	44462	04-91
Auto Schedule	44463	04-91
Auto Liability Protection	44449	12-93
Composite Rated Premium Adjustment Summary	GL088	05-95
PSS Public Entity Auto Liability Endorsement	A0130	10-98
Autos Rented By Employees Endorsement	A0173	12-99
Mobile Equipment Subject To Compulsory Or Financial Responsibility Insurance Laws Defined As Autos Endorsement	A0307	12-04
Uninsured And Underinsured Motorists Protection - West Virginia	44095	04-01
West Virginia Auto Medical Payments Protection	A0135	08-98
Auto Physical Damage Protection	44455	07-96
PSS Public Entity Auto Physical Damage Endorsement	A0131	06-06
Government Crime Protection Coverage Summary	C0025	04-03
Government Crime Protection - Discovery Form	C0022	04-03
Government Crime Protection Change Endorsement	C0013	05-08
Umbrella Excess Liability Protection Coverage Summary	E0119	03-96
Umbrella Excess Liability Protection Schedule Of Basic Insurance	47123	04-91
Umbrella Excess Liability Protection	47550	01-01
Sexual Abuse Reduction or Exhaustion of Basic Insurance Total Limit Endorsement - Umbrella Excess Liability	E0115	02-96
Property Damage Change And Intellectual Property Exclusion Endorsement - Umbrella Excess Liability	E0197	07-01
PSS Failure To Supply Service Total Exclusion Endorsement - Umbrella Excess Liability	E0198	10-01
Asbestos Exclusion Endorsement - Umbrella Excess Liability	E0199	03-02
Mold, Other Fungi, Or Bacteria Exclusion Endorsement - Umbrella Excess Liability	E0209	04-02
Public Sector Services Excluded Operations and Premises Endorsement	E0233	08-03
Unsolicited Communication Exclusion Endorsement - Umbrella Excess Liability	E0246	08-04
Public Entity Umbrella Excess Liability Endorsement	E0157	04-98
Government Unit Endorsement Umbrella Excess Liability	47230	04-91
Mobile Equipment Subject To Compulsory Or Financial Responsibility Insurance Laws Or Scheduled Under Your Auto...-UEL	E0273	12-04
Employment-Related Practices Exclusion Endorsement - Umbrella Excess Liability	47225	09-01
Health Care Professional Services Endorsement - Umbrella Excess Liability	47231	11-07

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POLICY FORM LIST

The St Paul

Here's a list of all forms included in your policy, on the date shown below. These forms are listed in the same order as they appear in your policy.

Title	Form Number	Edition Date
Sexual Abuse Exclusion Endorsement - Umbrella Excess Liability	47282	01-01
Law Enforcement Activities Or Operations Exclusion Endorsement - Umbrella Excess Liability	47296	05-06
Injury To Volunteer Firefighters Exclusion Endorsement	47297	04-91
Public Use Of Property Exclusion Endorsement-Umbrella Excess	47332	01-92
Excess Errors And Omissions Liability Protection-Claims-MadeCoverage Summary	47339	02-92
Excess Errors And Omissions Liability Protection-Claims-Made	47338	02-92

Name of Insured LUBECK PUBLIC SERVICE DISTRICT
Policy Number GP09312894
Effective Date
Processing Date 07/06/09 19:31 001

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PROPERTY PROTECTION COVERAGE SUMMARY

ST PAUL TRAVELERS

This Coverage Summary describes each insured item and shows the limits and extent of coverage under your property protection.

Description and location of covered property.

Item 001

BLANKET BUILDING AND BUSINESS PERSONAL PROPERTY
AT LOCATIONS SCHEDULED BELOW.

	Limit Of Coverage	Valuation
BLANKET **Building**	$16,155,850 Coinsurance 90%	RC
BLANKET **Business Personal Property**	Incl W Bldg Coinsurance 90%	RC

Business Income

Blanket Earnings And Expense

Deductibles Or Waiting Period

Your Property Protection deductible per loss event is $1,000.
(unless otherwise indicated below)

Other Coverages Or Options

Name of Insured LUBECK PUBLIC SERVICE DISTRICT

Policy Number GP09312894

Effective Date

Processing Date 07/06/09 19:31 001

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ST PAUL TRAVELERS

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LOCATIONS INCLUDED IN BLANKET

Item 001-001

11020 DUPONT ROAD
WATER TREATMENT PLANT
WASHINGTON, WV 26181

BUILDING OPTIONS:

BUSINESS PERSONAL PROPERTY OPTIONS:

Item 001-002

11020 DUPONT ROAD
OFFICE BUILDING
WASHINGTON, WV 26181

BUILDING OPTIONS:

BUSINESS PERSONAL PROPERTY OPTIONS:

Item 001-003

11020 DUPONT ROAD
NEW ENGLAND RIDGE BOOSTER STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-004

11020 DUPONT ROAD
HOMEWOOD BOOSTER STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

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Item 001-005

11020 DUPONT ROAD
HYVIEW SEWAGE PACKAGE PLANT
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-006

1446 DUPONT ROAD
WASTE TREATMENT PLANT OFFICE
WASHINGTON, WV 26181

BUILDING OPTIONS:

BUSINESS PERSONAL PROPERTY OPTIONS:

Item 001-007

1446 DUPONT ROAD
OXIDATION DITCHES
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-008

1446 DUPONT ROAD
CLARIFIERS
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-009

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* 7 C O O 2 GP09312894 10801

ST PAUL TRAVELERS

1446 DUPONT ROAD
RAS/WAS
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-010

1445 DUPONT ROAD
UV DISINFECTION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-011

1446 DUPONT ROAD
PLANT PUMP STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-012

1445 DUPONT ROAD
AEROBIC DIGESTER
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-013

1446 DUPONT ROAD
BELT PRESS BUILDING
WASHINGTON, WV 26181

BUILDING OPTIONS:

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BUSINESS PERSONAL PROPERTY OPTIONS:

Item 001-014

12132 DUPONT ROAD
NER ELEVATED WATER STORAGE TANK
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-015

12132 DUPONT ROAD
HOMEWOOD WATER STORAGE TANK & BOOSTER STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-016

RIVER HILL ROAD
WATER STORAGE TANK
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-017

WILDWOOD
WATER STORAGE TANK
PARKERSBURG, WV 26181

BUILDING OPTIONS:

Item 001-018

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ST PAUL TRAVELERS

11020 DUPONT ROAD
GARAGE AT WATER PLANT
WASHINGTON, WV 26181

BUILDING OPTIONS:

BUSINESS PERSONAL PROPERTY OPTIONS:

Item 001-019

END OF 1ST STREET, LARKMEAD
EAST PUMP STATION
PARKERSBURG, WV 26101

BUILDING OPTIONS:

Item 001-020

END OF 1ST STREET, LARKMEAD
WEST PUMP STATION
PARKERSBURG, WV 26101

BUILDING OPTIONS:

Item 001-021

OAK ACRES
PUMP STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-022

MCPHERSON SUBDIVISION
PUMP STATION
WASHINGTON, WV 26181

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BUILDING OPTIONS:

Item 001-023

WASHINGTON GARDENS
PUMP STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-024

WALNUT GROVE
PUMP STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-025

FAIRVIEW #1
GRINDER STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-026

LAKE RON
GRINDER STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-027

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ST PAUL TRAVELERS

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PINE VILLAGE
GRINDER STATION
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-028

POINTE WEST
PUMP STATION
PARKERSBURG, WV 26101

BUILDING OPTIONS:

Item 001-029

BLENNERHASSETT HEIGHTS
SAM'S GRINDER STATION
PARKERSBURG, WV 26101

BUILDING OPTIONS:

Item 001-030

12132 DUPONT ROAD
WELLFIELD ELECTRICAL STAND
WASHINGTON, WV 26181

BUILDING OPTIONS:

Item 001-031

LARKMEAD
WATER STORAGE TANK
PARKERSBURG, WV 26181

BUILDING OPTIONS:

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Item 001-032

COLLEGE HILL
WATER STORAGE TANK
BELLEVILLE, WV 26181

BUILDING OPTIONS:

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PROPERTY PROTECTION COVERAGE SUMMARY CONTINUED – EQUIPMENT BREAKDOWN COVERAGE

The St Paul

This Coverage Summary shows the limits and extent of your Equipment Breakdown Coverage.

Covered Locations

Loc. No.

BLANKET OVER ALL LOCATIONS SHOWN IN THE PROPERTY PROTECTION COVERAGE SUMMARY FORM #42563.

Additional Coverage Limits

Coverage	Limit
Expediting Expenses	$ 250,000
Pollution Cleanup And Removal	$ 250,000
Spoilage	$ 250,000

Optional Coverages

☒ Business Income

☐ Blanket Earnings And Expenses

☐

Deductible

Your deductible shown in the Property Protection Coverage Summary applicable to property damage, business income or blanket earnings and expense applies to loss under Equipment Breakdown Coverage unless a specific deductible is shown below.

$ Hours Days times ADV

Name of Insured LUBECK PUBLIC SERVICE DISTRICT

Policy Number GP09312894

Effective Date

Processing Date 07/06/09 19:31 001

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PUBLIC ENTITY GENERAL LIABILITY PROTECTION COVERAGE SUMMARY

ST PAUL TRAVELERS

This Coverage Summary shows the limits of coverage that apply to your Public Entity General Liability Protection. It also lists those endorsements, if any, that must have certain information shown for them to apply.

Limits Of Coverage

General total limit.	$	2,000,000
Products and completed work total limit.	$	2,000,000
Personal injury each person limit.	$	1,000,000
Advertising injury each person limit.	$	1,000,000
Each event limit.	$	1,000,000
Failure to supply limit.	$	500,000
Medical expenses limit.	$	0
Premises damage limit.	$	100,000
Sewer back-up limit.	$	100,000

Named Endorsement Table

Important Note: Only endorsements that must have certain information shown for them to apply are named in this table. The required information follows the name of each such endorsement. Other endorsements may apply, too. If so, they're listed on the Policy Forms List.

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GOVERNMENT CRIME PROTECTION COVERAGE SUMMARY

The St Paul

This Coverage Summary shows the coverages and limits of coverage that apply to your Crime Protection.

Coverages, Limits Of Coverage, And Deductibles

Coverage applies only to those coverages indicated by ☒ and when a limit of coverage is shown.

		Limit Of Coverage Per Crime Loss	Deductible Amount Per Crime Loss
☐	**1. Employee Theft – Per Loss**	$	$
☐	**2. Employee Theft – Per Employee**	$	$
☐	**3. Forgery Or Alteration**	$	$
☒	**4. Loss Inside Your Building – Theft Of Money And Securities**	$10,000	$1,000
☐	**5. Loss Inside Your Building – Robbery Or Safe Burglary Of Other Property**	$	$
☒	**6. Loss Outside Your Building**	$10,000	$1,000
☐	**7. Computer Fraud**	$	$
☐	**8. Funds Transfer Fraud**	$	$
☐	**9. Money Orders And Counterfeit Paper Currency**	$	$

Employee Benefit Plan(s) included as named insureds:

Named Endorsement Table

Important Note: Only endorsements that must have certain information shown for them to apply are named in this table. The required information follows the name of each such endorsement. Other endorsements may apply. If so, they're listed on the Policy Forms List.

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CC: 000 D559
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AUTO COVERAGE SUMMARY

The St Paul

This Coverage Summary shows the Limits of Coverage that apply to your Commercial Auto Protection. A blank section or space indicates no coverage.

Auto Liability Protection

Covered Autos:

- [X] Any Auto
- [ ] Owned Commercial autos
- [ ] Owned Private Passenger autos
- [ ] Scheduled autos
- [ ] Hired autos
- [ ] Non owned autos
- [ ] Other:

Limit of Coverage:

$1,000,000 each accident

Other:

Auto Medical Payments Protection

Covered Autos:

- [ ] Any auto
- [X] Owned Commercial autos
- [X] Owned Private Passenger autos
- [ ] Scheduled autos
- [ ] Other:

Limits of Coverage (Refer to the Auto Schedule)

Other:

Name of Insured	Policy Number	Effective Date
LUBECK PUBLIC SERVICE DISTRICT	GP09312894	Processing Date 07/06/09 19:31 001

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Auto Physical Damage Protection

Covered Autos

- ☐ Scheduled autos
- ☒ Owned Private Passenger autos
- ☒ Owned Commercial autos
- ☐ Hired autos
- ☐ Other:

Limits of Coverage

(Refer to the Auto Schedule)

Other:

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AUTO COVERAGE SUMMARY - CONTINUED

ST PAUL TRAVELERS

Auto No Fault Protection

Covered Autos: ☐ Owned Autos that are subject to State No-Fault Laws

Limits of Coverage: See your Agreement and any Optional Coverage Summary.

Other:

Other Coverage

Auto Uninsured Motorists Protection

Autos Covered:

ANY OWNED AUTO

Uninsured Limits of Coverage:

FOR THE STATE OF WV
$50,000 PER ACCIDENT

Underinsured Limits of Coverage:

FOR THE STATE OF WV
$50,000 PER ACCIDENT

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CC: 000 D559
* 7 C 0 0 2 GP09312894 10963 * M: 05 I: 000 T: 001

AUTO SCHEDULE

ST PAUL TRAVELERS

The types of coverage provided for each auto are indicated by completed spaces. A blank space indicates no coverage.

Auto	Year	Make	Type	VIN/Serial	Location
0001	1984	GMC	DUMP TRUCK	1GDHC34M0EV511416	WASHINGTON WV

			ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒		$250
☒ Uninsured Motorists*	☒ Collision	☒		$500
☐ No-Fault*	☐ Specified Causes of Loss	☐		
☒ Medical Payments	☐ Towing		Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0002	2007	GMC	SONOMA PU	1GTDT19E078236897	WASHINGTON WV

			ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒		$250
☒ Uninsured Motorists*	☒ Collision	☒		$500
☐ No-Fault*	☐ Specified Causes of Loss	☐		
☒ Medical Payments	☐ Towing		Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0003	1996	GMC	SONOMA PICKUP	1GTDT14X3TK503312	WASHINGTON WV

			ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒		$250
☒ Uninsured Motorists*	☒ Collision	☒		$500
☐ No-Fault*	☐ Specified Causes of Loss	☐		
☒ Medical Payments	☐ Towing		Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

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Auto	Year	Make	Type	VIN/Serial	Location
0004	1996	GMC	SONOMA KING	1GTCS19X7TK506057	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0005	1996	GMC	3/4 TON PICKUP	1GTGK29R1TE501539	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0006	1999	FORD	F150	1FTRX18L4XNA75935	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

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AUTO SCHEDULE

ST PAUL TRAVELERS

The types of coverage provided for each auto are indicated by completed spaces. A blank space indicates no coverage.

Auto	Year	Make	Type	VIN/Serial	Location
0007	2000	VOLVO	WG64F DUMP	4V5JC2UF8YN868980	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0008	1992	WHITE GMC	WG-64 VAC TRUCK	4V2JCBJF9NR813699	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0009	2002	TRAIL KING	TRAILER SER/UTIL	1TKC0242X2B088463	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0010	2003	FORD	F350 PICKUP	1FDSX35S73EC13384	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0011	2005	JEEP	LIBERTY	1J4GL48K25W715492	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

Auto	Year	Make	Type	VIN/Serial	Location
0012	1996	GMC	1/2 TON PICKUP	1GTEC14R7TE501020	WASHINGTON WV

		ACV or Stated Amount	Deductible
☒ Liability *	☒ Comprehensive	☒	$250
☒ Uninsured Motorists*	☒ Collision	☒	$500
☐ No-Fault*	☐ Specified Causes of Loss	☐	
☒ Medical Payments	☐ Towing	Maximum	

Med Pay $5000

Who We'll Pay For Physical Damage Loss. You and:

(*Note: Refer to the Auto Coverage Summary for the Limit of Coverage.)

CC: 000 D559
* 7 C 0 0 2 GP09312894 11019 * M: 05 I: 000 T: 001

UMBRELLA EXCESS LIABILITY PROTECTION COVERAGE SUMMARY

ST PAUL TRAVELERS

This Coverage Summary shows the limits of coverage and deductible that apply to your Umbrella Excess Liability Protection. It also lists those endorsements, if any, that must have certain information shown for them to apply.

Limits Of Coverage

General total limit.	$1,000,000
Products and completed work total limit.	$1,000,000
Personal injury each person limit.	$1,000,000
Advertising injury each person limit.	$1,000,000
Each event limit.	$1,000,000

Deductible $10,000
(This deductible applies to each event or offense not covered by your Basic Insurance.)

Named Endorsement Table

Important Note: Only endorsements that must have certain information shown for them to apply are named in this table. The required information follows the name of each such endorsement. Other endorsements may apply, too. If so, they're listed on the Policy Forms List.

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CC: 000 D559
* 7 C O O 2 GP09312894 11021 * M: 05 I: 000 T: 001

ST PAUL TRAVELERS

UMBRELLA EXCESS LIABILITY PROTECTION
SCHEDULE OF BASIC INSURANCE

This schedule describes your Basic Insurance.

Important Note: Basic Insurance means only the insurance described in this schedule for which limits of coverage amounts are shown.

Schedule of Basic Insurance

Commercial General Liability

Insurer ST. PAUL FIRE & MARINE INS. CO.

Policy number GP09312894

Policy period 07-01-2009 TO 07-01-2010

Coverage is: ☐ claims-made ☒ not claims-made

Limits Of Coverage	
General total limit.	$2,000,000
Products and completed work total limit.	$2,000,000
Personal injury each person limit.	$1,000,000
Advertising injury each person limit.	$1,000,000
Each event limit.	$1,000,000
Premises damage limit.	$100,000

Automobile Liability

Insurer ST. PAUL FIRE & MARINE INS. CO.

Policy number GP09312894

Policy period 07-01-2009 TO 07-01-2010

Limits Of Coverage

Bodily injury and property damage combined. Each accident
$1,000,000

Bodily injury. Each person	Each accident
$	$

Property damage Each accident
$

Employers Liability

Insurer
ST. PAUL FIRE & MARINE INS. CO.

Policy number GP09312894

Policy period 07-01-2009 TO 07-01-2010

Limits Of Coverage

Bodily injury by accident. Each accident
$1,000,000

Bodily injury by disease. Policy limit	Each employee
$1,000,000	$1,000,000

Name of Insured LUBECK PUBLIC SERVICE DISTRICT **Policy Number** GP09312894 **Effective Date** **Processing Date** 07/06/09 19:31 001

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LUBECK PUBLIC SERVICE DISTRICT
SEWER REVENUE BONDS, SERIES 2010 A
(WEST VIRGINIA INFRASTRUCTURE FUND)
SEWERAGE SYSTEM BOND ANTICIPATION NOTES, SERIES 2010
(WEST VIRGINIA INFRASTRUCTURE FUND)

3.13

RECEIPT OF EXCHANGE OF PRIOR NOTES FOR 2010 BONDS AND NOTES

The undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes"), of Lubeck Public Service District (the "Issuer"), dated September 27, 2005, in the original aggregate principal amount of $6,278,679, bearing no interest, hereby certifies that it has received the Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), dated February 25, 2010, in the principal amount of $2,136,720 and the Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), dated February 25, 2010, in the principal amount of $4,141,959, from the Issuer in exchange for the Prior Notes and that such exchange is sufficient to release the Prior Notes and discharge the liens, pledges and encumbrances securing the Prior Notes.

WITNESS my signature on this 25th day of February, 2010.

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

Authorized Representative

JACKSONKELLY
ATTORNEYS AT LAW PLLC
500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

CLOSING MEMORANDUM

3.14

To: **James Cox**
Angela Chestnut
Brian Blackwell
Sara Boardman

From: **Samme Gee**

Date: **February 25, 2010**

Re: **Lubeck Public Service District Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund)**

---

1. DISBURSEMENTS FROM DISTRICT

A.

Payor:	Lubeck Public Service District
Source:	General Fund
Amount:	$73,680
Date:	February 25, 2010
Form:	Wire Transfer
Payee:	West Virginia Municipal Bond Commission
Bank:	BB&T for benefit of Municipal Bond Commission
ABA:	051503394
Account #:	5270517317
Contact:	Sara Boardman, Executive Director West Virginia Municipal Bond Commission Suite 401 1207 Quarrier Street Charleston, WV 25301 304-558-3971
Reference:	Series 2010 A Bonds Debt Service Reserve Account

JACKSONKELLY
ATTORNEYS AT LAW PLLC
500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

February 25, 2010

Lubeck Public Service District
Washington, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Lubeck Public Service District Sewer Revenue Bonds,
Series 2010 A (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We have served as bond counsel to Lubeck Public Service District (the "Issuer") in connection with the issuance of its Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Bonds, dated February 25, 2010, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Bonds to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Bonds are issued in the principal amount of $2,136,720, in the form of one bond, registered to the Authority, bearing no interest, with principal payable quarterly on March 1, June 1, September 1 and December 1 of each year, commencing June 1, 2010, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Bonds.

The Bonds are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended

(collectively, the "Act"), for the purpose of refunding the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes").

We have also examined the applicable provisions of the Act and a Resolution duly adopted by the Issuer on February 11, 2010, as supplemented by a Supplemental Resolution duly adopted by the Issuer on February 11, 2010 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued, and the Loan Agreement is entered into. The Bonds are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to refund the Prior Notes, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer, without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Bonds. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the

Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer, payable from the Net Revenues of the System and secured by a first lien on and a pledge of the Net Revenues of the System, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund) and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund), all in accordance with the terms of the Bonds and the Resolution.

6. Under the Act, the Bonds and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

7. The Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest, if any, from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Bonds.

8. The Prior Notes have been paid within the meaning and with the effect expressed in the Prior Resolution, and the covenants, agreements and other obligations of the Issuer to the registered owners of the Prior Notes have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the certificate of the West Virginia Water Development Authority stating that it has received the Series 2010 A Bonds, the Series 2005 B Bonds and the Series 2010 Notes in exchange for the Prior Notes and that such exchange is sufficient to release and discharge the liens, pledges and encumbrances securing the Prior Notes.

No opinion is given herein as to the effect upon the enforceability of the Bonds under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

We have examined the executed and authenticated Bond numbered AR-1 and in our opinion, the form of said Bond and its execution and authentication are regular and proper.

Very truly yours,

Jackson Kelly PLLC

JACKSONKELLY
ATTORNEYS AT LAW PLLC
500 LEE STREET EAST • SUITE 1600 • P.O. BOX 553 • CHARLESTON, WEST VIRGINIA 25322 • TELEPHONE: 304-340-1000 • TELECOPIER: 304-340-1130
www.jacksonkelly.com

February 25, 2010

Lubeck Public Service District
Washington, West Virginia

West Virginia Infrastructure and Jobs Development Council
Charleston, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Re: Lubeck Public Service District
Sewerage System Bond Anticipation Notes,
Series 2010 (West Virginia Infrastructure Fund)

Ladies and Gentlemen:

We have served as bond counsel to Lubeck Public Service District (the "Issuer") in connection with the issuance of its Sewerage System Bond Anticipation Notes, Series 2010 (West Virginia Infrastructure Fund), dated the date hereof (the "Notes").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a loan agreement for the Notes, dated February 25, 2010, including all schedules and exhibits attached thereto (the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), and (ii) the Notes to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Notes are issued in the principal amount of $4,141,959, in the form of one note, registered to the Authority, bearing no interest, with principal payable in annual installments of $100 on June 1, 2010, June 1, 2011, June 1, 2012, June 1, 2013 and June 1, 2014, and with the entire outstanding principal payable in full on March 1, 2015, all as set forth in the Schedule Y attached to the Loan Agreement and incorporated in and made a part of the Notes.

Clarksburg, WV • Martinsburg, WV • Morgantown, WV • Wheeling, WV
Denver, CO • Lexington, KY • Pittsburgh, PA • Washington, DC

The Notes are issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly, Chapter 16, Article 13A and Chapter 31, Article 15A of the Code of West Virginia, 1931, as amended (collectively, the "Act"), for the purposes of (i) refunding the Issuer's Sewerage System Bond Anticipation Notes, Series 2005 (West Virginia Infrastructure Fund) (the "Prior Notes"); and (ii) paying costs of issuance and related costs.

We have also examined the applicable provisions of the Act and a Resolution duly adopted by the Issuer on February 11, 2010, as supplemented by a Supplemental Resolution duly adopted by the Issuer on February 11, 2010 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Notes are authorized and issued, and the Loan Agreement is entered into. The Notes are subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution and the Loan Agreement when used herein.

Based upon the foregoing and upon our examination of such other documents as we have deemed necessary, we are of the opinion, under existing law, as follows:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and a political subdivision of the State of West Virginia, with full power and authority to refund the Prior Notes, to operate and maintain the System, to adopt the Resolution and to issue and sell the Notes, all under the Act and other applicable provisions of law.

2. The Loan Agreement has been duly authorized by and executed on behalf of the Issuer and is a valid and binding special obligation of the Issuer, enforceable in accordance with the terms thereof.

3. The Loan Agreement inures to the benefit of the Authority and the Council and cannot be amended so as to affect adversely the rights of the Authority and the Council or diminish the obligations of the Issuer without the written consent of the Authority and the Council.

4. The Issuer has legally and effectively adopted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Notes. The Resolution constitutes a valid and binding obligation of the Issuer, enforceable against the Issuer in accordance with its terms thereof and contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Notes have been duly authorized, issued, executed and delivered by the Issuer to the Authority and are valid, legally enforceable and binding special obligations of the Issuer. There are outstanding obligations of the Issuer which will rank senior and prior to the Notes as to liens, pledge and source of and security for payment, being the Issuer's Sewerage System Revenue Bonds, Series 1999 A (West Virginia SRF Program), Sewerage System Revenue Bonds, Series 1999 B (West Virginia Infrastructure Fund), Sewer Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund), and Sewer Revenue Bonds, Series 2005 B (West Virginia Infrastructure Fund) (collectively, the "Prior Bonds") and Sewer Revenue Bonds, Series 2010 A (West Virginia Infrastructure Fund) (the "Series 2010 A Bonds"). The Notes shall be issued junior and subordinate to the Prior Bonds and the Series 2010 A Bonds with respect to liens, pledge and source of and security for payment and in all other respects. The Notes shall be payable only from the proceeds of any grants, any sewerage system revenue bonds, refunding revenue bonds or bond anticipation notes of the Issuer, issued subsequent to the issuance of the Notes.

6. Under the Act, the Notes and the interest thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

7. The Notes have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes. We express no opinion regarding the excludability of such interest from the gross income of the owners thereof for federal income tax purposes or other federal tax consequences arising with respect to the Notes.

8. The Prior Notes have been paid within the meaning and with the effect expressed in the Prior Resolution, and the covenants, agreements and other obligations of the Issuer to the registered owners of the Prior Notes have been satisfied and discharged. In rendering the opinion set forth in this paragraph, we have relied upon the certificate of the West Virginia Water Development Authority stating that it has received the Series 2010 A Bonds and the Series 2010 Notes in exchange for the Prior

Notes and that such exchange is sufficient to release and discharge the liens, pledges and encumbrances securing the Prior Notes.

No opinion is given herein as to the effect upon the enforceability of the Notes under any applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights or the exercise of judicial discretion or principles of equity in appropriate cases.

We have examined the executed and authenticated Note numbered R-1 and in our opinion, the form of said Note and its execution and authentication are regular and proper.

Very truly yours,

Jackson Kelly PLLC

RICHARD A. HAYHURST
ATTORNEY AT LAW
POST OFFICE BOX 86
PARKERSBURG, WEST VIRGINIA 26102-0086

414 MARKET STREET

AREA CODE 304
TELEPHONE 422-1445
FACSIMILE 428-2674

February 25, 2010,
Our 38th Year.

Lubeck Public Service District,
301 Ox Johnson Lane,
Washington, West Virginia 26181.

West Virginia Infrastructure and
Jobs Development Council,
180 Association Drive,
Charleston, West Virginia 25311.

West Virginia Water Development
Authority,
180 Association Drive,
Charleston, West Virginia 25311.

Jackson Kelly, PLLC,
Post Office Box 553,
Charleston, West Virginia 25322-0553.

Ladies and Gentlemen:

In re: Lubeck Public Service District Sewer Revenue Bonds, Series 2010A
(West Virginia Infrastructure Fund);
Sewerage System Bond Anticipation Notes, Series 2010
(West Virginia Infrastructure Fund).

I am counsel to Lubeck Public Service District (the "Issuer"). As such counsel, I have examined copies of the approving opinion of Jackson Kelly, PLLC, as bond counsel, relating to the above-captioned bonds of the Issuer (collectively, the "Bonds"), and the above-captioned notes of the Issuer (the "Notes"), a loan agreement for the Bonds and Notes, all dated February 25, 2010, including all schedules and exhibits attached thereto (collectively, the "Loan Agreement"), by and between the Issuer and the West Virginia Water Development Authority (the "Authority"), on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Council"), a Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on February 11, 2010, as supplemented by a Supplemental Resolution duly adopted on February 11, 2010, (collectively, the "Resolution"), orders of the County Commission of Wood County relating to the Issuer and the appointment of members of the Board, and other documents relating to the Bonds and the Issuer. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Loan Agreement and Resolution when used herein.

I am of the opinion that:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to refund the Prior Notes, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Loan Agreement has been duly authorized, executed and delivered by the Issuer and, assuming due authorization, execution and delivery by the Authority, constitutes a valid and binding agreement of the Issuer, enforceable in accordance with its terms.

4. The Resolution has been duly adopted by the Board and is in full force and effect.

5. The execution and delivery of the Bonds and the Notes and the Loan Agreement and the consummation of the transactions contemplated by the Bonds and the Notes, the Loan Agreement and the Resolution, and the carrying out of the terms thereof, do not, and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds and of the Notes, the refunding of the Prior Notes, the operation of the System and the imposition of rates and charges for the use of the System, including, without limitation, all

requisite permits, approvals, orders and certificates from The County Commission of Wood County, the Council, the West Virginia Department of Environmental Protection and the Public Service Commission of West Virginia (the "PSC"). The Issuer has taken all actions required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the PSC Order entered on November 13, 2009, in Case No. 08-2016-PSWD-42A, approving the refunding of the Prior Notes through the issuance of the Bonds and the Notes and the PSC Order entered November 13, 2009, in Case No. 08-2016-PSWD-42A, approving the rates for the System. The time for appeal of the Order has expired prior to the date hereof. The Order is in full force and effect.

7. To the best of my knowledge, there is no litigation, action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, the Bonds, the Notes and the Resolution, the operation of the System, the validity of the Bonds and the Notes, the collection of the Gross Revenues, the pledge of the Net Revenues for the payment of the Bonds or the pledge of the proceeds of additional revenue bonds, refunding bonds, bond anticipation notes and grants for the payment of the Notes.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Yours very truly,

Richard A. Hayhurst,
Counsel for Lubeck Public Service District.

RAH/23.
cc: Lubeck Public Service District.