LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A (BB and T)

Closing Date: May 14, 2010

TRANSCRIPT OF PROCEEDINGS

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{C1733001.1}

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LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A (BB and T)

May 13, 2010
Pre-Closing Attendance List

Name	Association	Telephone	Fax	E-Mail
[illegible]		304-863-[illegible]		
[illegible]		304-422-1445		
Philip R Postlewait Jr		304-422-7444		
Jerry R. [illegible]		304-863-3744		
[illegible]		304 481-7459		
Philip R Postlewait		304-422-7441		
James M. Cox		304-863-3341		
Craig [illegible]		304-485-8541		
Ryan White		304 340-1283		

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A (BB and T)

May 14, 2010
Closing Attendance List

Name	Association	Telephone	Fax	E-Mail
Ryan White	Jackson Kelly	304 340-1083	304 340 1272	srwhite@jacksonkelly.com
Rusty Akers	BB&T	304 353 1635	304 340 4702	rusty.akers@bbandt.com
Sammie Gee	Jackson Kelly	304.340.1318	304.340.1272	sgee@jacksonkelly.com

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

May 12, 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.
16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.
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16-13A-5. General manager of board.
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16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.
16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.
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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-

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.

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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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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).

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Westlaw Topic Nos. 104, 268.

C.J.S. Counties § 31.
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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.

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

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

Notes of Decisions

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Ministerial officers, generally 2
Sufficiency of evidence 3

1. Criminal responsibility of members

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

2. Ministerial officers, generally

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

3. Sufficiency of evidence

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

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

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

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

(b) Salaries of the board members are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–5. General manager of board

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

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

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

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

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

Library References

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

§ 16–13A–6. Employees of board

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

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

Library References

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

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

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

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

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

Library References

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

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

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

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

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1. Validity

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

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

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

2. In general

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

3. Eminent domain powers

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

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

4. Valuation of property

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

5. Environmental assessment

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

6. Connections with sewers or drains

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

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

7. Public corporation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Law Review and Journal Commentaries

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

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

Library References

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

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

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

1. Validity

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

2. Takings

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

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

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

3. Public service district liens

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

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

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

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

4. Rates and charges for service

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

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

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

5. Notice of availability of sewer service

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

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

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

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

Acts 1982, c. 74.

Library References

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

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

§ 16–13A–10. Budget

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–11. Accounts; audit

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

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

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

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

Library References

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

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

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

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

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

Library References

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

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

§ 16–13A–13. Revenue bonds

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

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

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

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

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

Library References

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

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

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

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

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

Acts 1953, c. 147.

Library References

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

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

United States Code Annotated

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

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

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

Acts 1953, c. 147.

Library References

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

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

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

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

Acts 1953, c. 147.

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–18. Operating contracts

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

Acts 1953, c. 147.

Library References

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

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

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

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

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

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

Library References

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

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

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

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

Acts 1953, c. 147.

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

§ 16–13A–20. Refunding revenue bonds

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

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

Acts 1953, c. 147.

Library References

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

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

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

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

Library References

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

Notes of Decisions

In general 2
Validity 1

1. Validity

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

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

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

2. In general

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

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

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

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

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

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

Library References

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

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

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

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

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

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

Library References

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

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

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

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

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

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

Library References

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

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

Notes of Decisions

In general 1

1. In general

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

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

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

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

(1) Experience with the same engineering firm; or

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

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

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

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

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

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

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

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

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

Library References

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

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

Research References

ALR Library

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

Notes of Decisions

In general 1
Certificate of public convenience and necessity 2

1. In general

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

2. Certificate of public convenience and necessity

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

West's

Annotated Code of West Virginia

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

Chapter 16

2009
Cumulative Annual Pocket Part

Replacing 2008 Pocket Part supplementing 2008 Main Volume

Includes laws through the 2009 Second Extraordinary Session

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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
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.

Section
16–14–1 to 16–14–3. Rep

§§ 16–14–1 to 16–14-

The repealed sections, and cosmetologists, were c
Acts 1951, c. 155.
Acts 1959, c. 139.

§ 16–15–1. Definiti

American Dream Dow U.S.C.A. § 12821.
Farm housing, see 42 U.
Helping Hands for Hom U.S.C.A. §§ 1472, 12805.

§ 16–18–1. Short tit

Slum clearance and ur U.S.C.A. § 1441 et seq.

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Section
16–19–1. Short title.
16–19–2. Applicability.
16–19–3. Definitions.
16–19–4. Who may make donor's death.
16–19–5. Manner of maki fore donor's de
16–19–6. Amending or rev before donor's
16–19–7. Refusal to make of refusal.
16–19–8. Preclusive effect amendment, or
16–19–9. Who may make cedent's body o

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 N. Kincheloe and Malcolm B. Loudon.

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. Loudon 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 N. 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 N. Kincheloe
Malcolm B. Loudon

Nay: NONE

Whereupon the President declared the motion duly carried and said resolution and order duly adopted. Malcolm B. Loudon 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 N. 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 N. Kincheloe
Malcolm B. Loudon

Nay: NONE

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

On motion and vote the meeting adjourned.

s/ 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 N. 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 1.00 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. 35° 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, 12th 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,

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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 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 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 = LARRY BRETHERS 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

James M. Cox

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

My commission expires: 10-8-91

Bernetta Johnson

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' 53"; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. 39° 11' 32" and having a longitude of W. 81° 37' 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 claiming 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

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 ~~xxxxxxxxxx~~ 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.

Notary Public, Wood County, West Virginia

My commission expires 7-21-92

Parkersburg Printing Co. - 6/71

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: Pauline Eaton

Deputy

ORIGINAL

ENTERED
O.B. 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.

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
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 additonal 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 52.9 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

Order Book 60
Page 92

ORIGINAL

ENTERED
Book 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

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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Litho. in U.S.A.

12-28-09
69/101

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. Ross
West Virginia Bureau of Public Health

Rosalie M Broderick
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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Litho. in U.S.A.

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

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 W esBanco 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

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

RULES OF PROCEDURE

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

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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

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
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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.

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
AT CHARLESTON

EXCEPTIONS FILED

Entered: August 19, 2009

CASE NO. 08-2016-PSWD-42A

LUBECK PUBLIC SERVICE DISTRICT.
Rule 42A application to increase sewer rates and water rates.

RECOMMENDED DECISION

On November 24, 2008, Lubeck Public Service District (District), a public utility, Wood County, filed an application with the Public Service Commission, pursuant to Rule 42A of the Commission's *Rules for the Construction and Filing of Tariffs (Tariff Rules)*, seeking to increase its annual revenues for providing public water service by approximately $176,050.93, or 11% above going-level, and seeking to increase its annual revenues for providing public sewer service by approximately $117,033.40, or 11% above going-level, by increasing its water and sewer rates. The Commission's case file contains an affidavit indicating that the District has published the proposed rates, once, on January 30, 2009, in *The Parkersburg News*, a newspaper published and generally circulated in Wood County.

By the December 30, 2008 Commission Referral Order, the Commission referred this matter to the Division of Administrative Law Judges for a decision no later than June 22, 2009, thereby requiring Commission Staff to submit its report no later than April 13, 2009.

Responding to all of the above, by the February 19, 2009 Procedural Order, the Administrative Law Judge (ALJ) adopted a procedural schedule to process and resolve this matter, including an April 24, 2009 hearing date. The Order also required that the District publish a public hearing notice.

On February 24, 2009, William T. Argabrite, a customer of the District, filed a complaint with the Commission against the District. This complaint was treated as a protest. Numerous other letters of protests were filed. On March 23, 2009, another customer, John P. Penczak, specifically filed a petition to intervene.

On March 3, 2009, the District submitted Tariff Form 6 and other information showing that the District had properly notified its customers of the proposed rate increases by posting, publication, separate mailing and sending a news release to The Parkersburg News.

On March 9, 2009, the District submitted another publication affidavit showing that the proposed rates were published, once, on February 24, 2009, in *The Parkersburg News*, a newspaper published and generally circulated in Wood County.

KAG

By the March 27, 2009 Order Granting Intervenor Status, the ALJ granted Intervenor status to Mr. Argabrite and Mr. Penczak.

On April 9, 2009, the District filed a publication affidavit indicating that the Notice of Hearing for the April 24, 2009 hearing was published on March 30 and April 6, 2009, in *The Parkersburg News*, a newspaper published and generally circulated in Wood County.

On April 24, 2009, the ALJ convened the hearing as scheduled. The District appeared at the hearing by counsel, Richard A. Hayhurst, Esquire; Commission Staff appeared by Staff Attorney Ronald E. Robertson, Jr., Esquire; the Intervenors, William T. Argabrite and John P. Penczak, appeared in person, *pro se*; and three customers, i.e., Judith Ann Boston, Steven Johnk and Lee Sylvester, also appeared to protest the rate hike. The parties presented no evidence at the April 24, 2009 hearing. Commission Staff and the District indicated that additional information needed to be considered by Staff prior to Staff making its final recommendation and that they would be seeking an extension of the decision due date from the Commission. The Intervenors and Protestants agreed to the proposed hearing and decision continuance.

By the April 30, 2009 Commission Order Extending Administrative Law Judge's Decision Due Date, the Commission granted the ALJ until August 21, 2009, to render his written recommended decision in this matter.

By the May 4, 2009 Order Adopting New Procedural Schedule, the ALJ scheduled this matter for a second hearing, to convene on June 11, 2009. The ALJ held that, since the District previously published a notice of hearing, no further public notice was required. However, in addition to the actual parties, those customers who appeared at the April 24, 2009 hearing to protest the proposed rate increase would also be notified of the June 11, 2009 hearing. Finally, if it had not already done so, the ALJ reminded the District that it must comply with all of the notice requirements contained in the *Tariff Rules* as previously ordered.

On June 9, 2009, Staff Attorney Robertson submitted the Further Final Joint Staff Memorandum, attaching the June 9, 2009 Staff Report for the District's water operations and the June 9, 2009 Staff Report for the District's sewer operations. The new Staff recommendations would increase the District's existing water rates by 9.53%, rather than 11%, as requested by the District, or 11.74%, as previously recommended by Staff. The new Staff recommendations would increase the District's existing sewer rates by 13.5%, rather than 11%, as requested by the District, or 6.01%, as previously recommended by Commission Staff.

Also on June 9, 2009, Mr. Penczak requested that the ALJ continue the hearing, stating, "Along with not knowing about the June 11 hearing, Lubeck Customers do not know they are about to take on over two million dollars in debt that is not due until 2039."

By the June 10, 2009 Order Denying Motion to Continue Hearing, the ALJ denied Mr. Penczak's request to continue the hearing. The ALJ held that the public had been given proper notice in compliance with the Commission's *Tariff Rules*; the District published the Public Notice of Change

in Rates Upon Application, as required; the District also published the Notice of Hearing for the April 24, 2009 hearing, as required; and the Commission served a copy of the May 4, 2009 Order, which scheduled the June 11, 2009 hearing, on all those who attended the April 24, 2009 hearing. The ALJ further held that the language contained in the Public Notice of Change in Rates Upon Application is sufficient to put all of the District's customers on notice that the final rates adopted by the Commission may be the same as, greater than or less than those proposed by the District or those recommended by Commission Staff. The amended Staff-recommended water rates amount to a lower increase than proposed while the amended Staff-recommended sewer rates amount to an increase in the proposed rates and an increase in Staff's original recommendation. All of this was anticipated by the Public Notice of Change in Rates Upon Application. Had the amended Staff-recommended rates been substantially higher than the published rates, the ALJ would have considered giving further notice. However, the rates now recommended by Staff are within the realm of rates anticipated by the Public Notice of Change in Rates Upon Application. Finally, the District did not appear to be taking on additional debt, as related by Mr. Penczak. Rather, the District appeared to be restructuring the payment of its existing debt.

On June 11, 2009, the ALJ convened the hearing as scheduled and all of the same parties and persons were present who were present at the April 24, 2009 hearing. All persons present were given the opportunity to present their own testimony or to make statements. All parties were permitted to present the testimony of witnesses and present documentary evidence as well as the opportunity to cross-examine the witnesses called by other parties. Commission Staff presented the testimony of two witnesses and presented four exhibits; the District presented the testimony of one witness; one of the Intervenors, Mr. Penczak, presented the testimony of three persons; the other Intervenor, Mr. Argabrite, presented the testimony of one witness; and two Protestants presented their statements and one Protestant, Judith Boston, also presented one exhibit.

On June 22, 2009, John P. Penczak, who has been granted Intervenor status in this matter, submitted a letter requesting additional time to respond to the Staff recommendations and to respond to "statements made by Attorney Hayhurst in his Post Hearing Brief dated June 19, 2009."

By the June 24, 2009 Order Denying Request for Additional Time, the ALJ held that the procedural schedule adopted by the May 4, 2009 Order provided sufficient time for all of the parties to submit post-hearing proposed findings of fact and conclusions of law, briefs or other written legal arguments and to reply to other parties' written legal arguments, briefs or proposed findings of fact and conclusions of law.

On June 24, 2009, the reporter submitted a 175-page transcript and a one-page certificate that the transcript is a true and accurate record of the June 11, 2009 hearing. Since no evidence was presented at the April 24, 2009 hearing, the ALJ will refer to the transcript of the June 11, 2009 hearing as "Tr." and will make no further references to the transcript of the April 24, 2009 hearing.

After the June 24, 2009 hearing, the parties availed themselves of their opportunities under *West Virginia Code* §24-1-9(b) to submit written legal arguments, including proposed findings of fact

and conclusions of law, briefs and replies, all of which the ALJ considered, together with all of the evidence presented, prior to rendering this Recommended Decision.

EVIDENCE

Counsel for the District represented that the District had voted in a meeting to accept the Staff-recommended rates and charges. (Tr., p. 12).

The first witness who testified for Commission Staff was Staff Engineer Jonathan Fowler, P.E. Mr. Fowler identified the initial Staff Report related to the District's sewer operation, received as Staff Exhibit No. 1, and the final Staff Report related to the District's sewer operation, received as Staff Exhibit No. 2. The initial Staff Report related to the District's water operation was received as Staff Exhibit No. 3 and the final Staff Report related to the District's water operation was received as Staff Exhibit No. 4. Mr. Fowler explained that Staff had rendered a Staff Report for the District's water and sewer operations in preparation for the April 24, 2009 hearing, but had revised those reports prior to the June 11, 2009 hearing. Staff is recommending that the Commission adopt the revised Staff recommendations in this matter. (Tr., pp. 18-21; Staff Exhibit Nos. 1 through 4).

Addressing the District's sewer operation first, Mr. Fowler investigated the District's ongoing operations to determine the adequacy and appropriateness of the District's operations and maintenance (O&M) and to determine the District's capital needs. Mr. Fowler studied the District's capital additions over the past five years in order to project the capital spending the District would need to make in the next two to four years. Mr. Fowler investigated the District's sewer and water operations separately, making going-level adjustments as appropriate based on known expenditures that the District will have to make. Among other things, the sewer operation needs a high-velocity pipe cleaning system, the replacement of electrical controls for the pump stations, the replacement and repair of lift stations and the replacement and repair of controls and testing equipment at the treatment plant. Mr. Fowler recommended that the District purchase some vehicles, including a dump truck, a pickup truck, and a tractor and various attachments, that would be shared by the water and sewer operations, and allocate the cost for these items at approximately 65% to the water operation and approximately 35% to the sewer operation. The District also shares personnel and the cost for personnel is allocated in the same way. (Tr., pp. 21-32).

Mr. Fowler noted that, like most sewer systems, the District's collection system has problems with inflow and infiltration (I&I). He characterized the District's I&I as moderately high, noting that many systems in the state had a much greater I&I problem. Staff did not recommend that the District address its I&I problems with the rates approved in this case. Rather, the District needs to seek loans and/or grants to address this problem in the context of a future certificate case, depending upon the scope of the project. (Tr., pp. 33-35).

Mr. Fowler explained that the Commission sets rates for public utilities but does not micro-manage them. Staff recommends rates that will generate revenue sufficient for the District to do the things that need to be done to properly operate its water and sewer operations. If a utility does not purchase a large item, such as a vehicle, for which rates are allowed, Commission Staff likely would

not include revenues for such an item in the next rate case. Staff has considered whether the District should perform certain actions with in-house labor and equipment or whether it should out-source some of these items. Staff believes that, for the most part, it is more economical and practical for the District to purchase the equipment and perform the work itself rather than to out-source it. For example, Staff has recommended that the District purchase a high-velocity cleaning system for the sewer operation, since this is a piece of equipment that it will use on an almost daily basis. The high-velocity cleaning system will cost approximately $40,000. Equipment that would be used only occasionally could be provided on an as-needed basis by an outside contractor. (Tr., pp. 36-44). Mr. Fowler indicated that the District has many acres of grass to mow. Since this is a necessity, Staff has allowed for this in its recommended rates. Even though the District already uses cleaning agents to eliminate grease, it still needs the high-velocity cleaning system. (Tr., pp. 43-46).

With regard to the District's water operation, Mr. Fowler reiterated that all O&M expenses for activities shared by the District's water and sewer operations were allocated 65% for the water operation and 35% for the sewer operation. Mr. Fowler followed that same general procedure to determine the District's projected capital additions, based on the previous five years' actual experience. The largest capital addition needed for the water operation is the replacement of an additional 200 water meters per year. The District has approximately 4,200 water customers and needs to certify every water meter every 10 years. The District has not kept up with water meter testing and certification, so it needs to replace more than the average amount for the foreseeable future in order to catch up. Staff has allowed approximately $35,000 for this item. It will take the District approximately five years to catch up on the water meter replacement schedule. This project will not require additional personnel. The District also needs to improve its water treatment facility with several minor additions, such as a permanganate analyzer and a new chlorine analyzer, and the District needs to replace the filter media annually. Staff made some going-level adjustments to account for increased costs due to inflation and other similar factors. The District needs to install dehumidifying equipment to eliminate corrosion in its filter rooms. The District needs to paint two water storage tanks, at an estimated cost of $600,000. While replacement of the tanks with glass-lined tanks would require less maintenance, it would be more economical to paint and renovate the existing tanks, since new tanks would cost approximately $1,300,000. The high-velocity cleaning system for the sewer operation also has some useful purposes for the water operation. The District's unaccounted-for water is only about 6%, which is well below the 15% allowed by the Commission and which indicates that the District is doing a good job in preventing leaks and maintaining its lines. (Tr., pp. 98-116; Staff Exhibit Nos. 3 and 4).

Next, Commission Staff called Utilities Analyst Pete Lopez to testify. Mr. Lopez made going-level adjustments for many items based on the increased cost of those items. Also, since the District has increased the wages of its employees, Staff has allowed for those increased wages and benefits in the Staff-recommended rates. Since gasoline costs have decreased since the test year, Staff made a going-level adjustment that includes decreased costs for gasoline. Staff made going-level adjustments for any known and measurable changes to O&M expenses. The District's debt service reserves for its sewer operation are fully funded, so Staff recommended a 110% debt service coverage ratio instead of a 115% ratio. Mr. Lopez explained that the major difference between the original Staff-recommended rates, set forth in Staff Exhibit No. 1, for the District's sewer operation and the

final recommendation, set forth in Staff Exhibit No. 2, for the District's sewer operation was the inclusion of the payment to convert approximately $2,100,000 of a Bond Anticipation Note (BAN) to permanent financing. This action increases the principal loan payment by $73,680. The BAN was for the 1998 project. Staff also included funding for the high-velocity cleaning system. More precisely, the Staff-recommended rates will provide a 110.32% debt service coverage ratio while providing a $30,189 renewal and replacement fund and a $30,626 cash surplus. Staff recommended that the District's sewer rates be increased by approximately 13.5%. In Staff Exhibit No. 1, Staff recommended increasing the District's total available cash by approximately $63,689, or 5.9%, from $1,095,104 at going-level to $1,158,793. In Staff Exhibit No. 2, Staff revised the going-level amount to approximately $1,095,545 and recommended increasing the total available cash by approximately $143,682, or approximately 13.5%, to $1,239,177. Mr. Lopez clarified that Staff is recommending that the District purchase the high-velocity cleaning system out of the cash surplus or the renewal and replacement fund, not as an O&M expense, and that the purchase be amortized over five years. (Tr., pp. 46-58; Staff Exhibit Nos. 1 and 2). Staff is recommending that the Commission approve a five-year loan in this rate case for the District to purchase the high-volume cleaning system. (Tr., pp. 58-60; Staff Exhibit Nos. 1 and 2).

Mr. Lopez explained that, by increasing the long-term debt service by $73,680 to convert the BAN to long-term financing, the amount payable into the renewal and replacement fund is automatically increased, since it is based on a percentage, i.e., 2.5%, of the total debt service requirement. Staff believes that the best use for this increased renewal and replacement fund is to purchase the high-velocity cleaning system. Mr. Lopez stated that the District is required to convert the BAN by March 1, 2010. It makes sense to Staff to go ahead and convert the BAN once the rates in this case go into effect, rather than require the District to file another rate case for this sole purpose. The District intends to convert approximately 1/3 of the BAN at this time. It is required to convert a portion of the BAN periodically. It would cost the District more to convert the BAN in a separate proceeding. (Tr., pp. 60-68).

Mr. Lopez clarified that the BAN was last converted in 2005, leaving approximately $6,200,000 owing in the BAN. The District is proposing to convert approximately $2,100,000 in this rate case. Converting the BAN accounts for most of the Staff-recommended rate increase for the District's sewer operation. The BAN permitted the District's rates to be lower, beginning with the 1998 project, but they BAN has to be converted at regular intervals according to its terms. The payment on the long-term financing to convert the BAN will be at zero percent interest, i.e., all of the payment will be to reduce the principal. It is prudent for the District to take advantage of the zero percent interest rate. The reason that the April 2009 hearing was continued was for Staff to analyze the District's sewer rates in light of converting the BAN, which Staff did not do in its original report, i.e., Staff Exhibit No. 1. Staff Exhibit No. 2 considers converting the BAN and is the final recommendation of Staff for the District's sewer operation. The amount of the BAN conversion is proportional to the new customers which have been added to the District. This is the first rate increase that the District's sewer operation has sought since 1998. (Tr., pp. 68-83; Staff Exhibit Nos. 1 and 2).

With regard to the District's water operation, Mr. Lopez made going-level adjustments for the water tank painting, salaries and benefits, an additional dump truck and many minor items. Originally, Staff had recommended an 11.74% rate increase for the water operation, but now recommends a 9.53% rate increase for the water operation. At going-level, the District will have $1,605,302 in total available cash. The Staff-recommended rates will increase that amount by approximately $204,095, to $1,809,397. This will provide a 136.59% debt service coverage ratio, a $44,357 renewal and replacement reserve and a $72,834 cash flow surplus. The debt service coverage includes principal and interest for a $600,000 loan to paint the two water tanks. The chief reason for decreasing the rate increase from 11.74% to 9.53% was that the District was paying too much on its long-term loan principal. Staff recommended that those payments be made as scheduled. Mr. Lopez explained the apparent discrepancy in Schedule H for Staff Exhibit Nos. 3 and 4 by indicating that the figure for total available cash in Staff Exhibit No. 3 was erroneous. The figure in Statement H, Staff Exhibit No. 4 is the correct amount. Mr. Lopez physically corrected a minor error in the figures elsewhere in Staff Exhibit No. 4 and corrected one number on Statement H, but assured that the totals on Statement H were correct. (Tr., pp. 117-131; Staff Exhibit Nos. 3 and 4). Mr. Lopez indicated that he would prepare a post-hearing exhibit, if needed, to clarify all of the corrections he made at the hearing. (Tr., pp. 131-137).

Mr. Lopez clarified some previous answers and acknowledged that he is not aware of any other public utility which pays 100% of its employees' health insurance premiums. (Tr., pp. 137-159).

One of the Protestants, Judith Ann Boston, made a comment and read a prepared statement into the record, received as Protestant Exhibit No. 1. She believed that companies need to cut back in every way possible in this economy. She opined that the proposed sewer rate increase is way out of line, but thought that the water rate increase was somewhat reasonable, although she believed that the District needs to show marked improvement in its water and sewer operations. (Tr., pp. 85-86, 168-173; Protestant Exhibit No. 1).

One of the Intervenors, Mr. Argabrite, called James M. Cox, the District's manager, to testify regarding the District's sewer operation. Mr. Cox testified that a portion the BAN had to be converted to long-term financing by March 1, 2010. The District included this in its application for a rate increase for its sewer operation, but Commission Staff did not originally consider this request. When the parties convened for the April 2009 hearing, Commission Staff agreed to reconsider this request, which has resulted in Staff's revised recommendation. The decision on how much of the BAN to convert was made following a formula governed by the terms of the BAN. Portions of the BAN will be converted to long-term financing periodically until the BAN is eliminated. The District has approximately 300 more customers now than it did in 1998 when the BAN was instituted. Approximately $10,000,000 of the BAN was converted in 2005, leaving just over $6,000,000, and the District now proposes to convert an additional $2,100,000. The formula for converting the BAN was determined during the 1998 rate case in conjunction with the West Virginia Infrastructure and Jobs Development Council (IJDC). Mr. Cox opined that the District has no discretion regarding conversion of the BAN, except that it wants to include it in this rate case rather than file a separate rate case for that purpose to meet the March 1, 2010 deadline. The 1998 project cost approximately $26,500,000. Initially, approximately $10,000,000 of that cost was long-term debt and the remainder

was covered by the BAN. The District eventually has to assume the entire debt and is doing so gradually by converting a portion of the BAN periodically. The initial project was in response to environmental concerns of the West Virginia Department of Environmental Protection (DEP) to avoid fines and other sanctions. (Tr., pp. 87-95).

Regarding the District's water operation, Mr. Cox testified that the District is now behind in its meter testing and replacement program, estimating that over 1,000 meters need to be tested at this time, since they have not been tested for over 10 years. He stated that the District needs to test approximately 420 meters every year, once it catches up with the quota by testing an additional 200 per year. Mr. Cox has been the District's manager since 1980. Mr. Cox currently has a salary of approximately $75,790. The most-current pay increase for the District's employees was July 1, 2008. Currently, the District pays 100% of the insurance premiums for its employees. This is a decision made by the District's Board. Mr. Cox reasoned that, if the District reduced the percentage of the insurance premiums it paid on behalf of the employees and then gave them a corresponding pay raise, it would cost the District more because the District then would have to pay increased matching amounts for FICA, unemployment, workers' compensation and so forth. (Tr., pp. 138-147). Mr. Cox explained what some of the items of expense represented. (Tr., pp. 147-155).

One of the Protestants, Lee Sylvester, made a statement. Mr. Sylvester opposed the proposed rate increases because they will be too costly for many customers to afford. He cited the poor economy and the fact that both the water and the sewer rates would be increased at the same time. (Tr., pp. 96-97).

One of the Intervenors, John Penczak, called Philip R. Postlewait, C.P.A., to testify. Mr. Postlewait is the District's accountant. He verified that Staff had used the correct figures for salary and benefits for the District's employees in its analysis. (Tr., pp. 160-161).

Mr. Penczak also called Paul William Smith, the Chairman of the District's Board, to testify. Mr. Smith clarified that he is the Chairman, not the "President" of the District's Board. (Tr., pp. 162-163).

Mr. Penczak also testified on his own behalf. Mr. Penczak testified that it is extremely difficult for him to understand how the District operates and how the Commission determines proper rates for the District to charge. He requested that the District or the Commission give him a document that simplified the ratemaking procedure so that customers could understand. Mr. Penczak does not believe that the public has full knowledge or notice of the impact of converting the BAN to long-term financing. Mr. Penczak basically accepted the proposed water rate increase, but opposed the sewer rate increase. (Tr., pp. 164-167).

DISCUSSION

Regarding the District's request for a rate increase for its water operation, no real issue presents itself to the ALJ. Even the Protestants and Intervenors appear to recognize the need for a rate increase for the water operation. Commission Staff has recommended a 9.53% rate increase for

the water operation. The Staff-recommended rates, which the District accepts, will increase revenues by approximately $204,095, to $1,809,397, which will provide a 136.59% debt service coverage ratio, a $44,357 renewal and replacement reserve and a $72,834 cash flow surplus, which is in line with the average plant additions. The debt service coverage includes principal and interest for a $600,000 five-year loan to paint the two water tanks. Since the Staff-recommended rates for the water operation are sufficient, but not more than sufficient, to cover the District's reasonable O&M expenses and provide the proper debt service coverage and cash surplus for reasonable plant additions, the ALJ will approve the Staff-recommended rates set forth in Appendix A.

Regarding the District's request for a rate increase for it s sewer operations, the Protestants and Intervenors presented their objections, but presented no evidence that reasonably rebuts the propriety of the Staff-recommended rates, which the District has accepted. Staff originally had recommended a smaller rate increase for the sewer operation, but subsequently considered the District's request for inclusion of a payment to convert approximately $2,100,000 of a BAN to permanent financing. This action increases the principal loan payment by $73,680. The BAN was for the 1998 project. This is the first rate increase that the District has sought for its sewer operation since 1998. The ALJ believes that it is prudent and reasonable to include this debt service in the instant rate case, rather than require the District to file another rate case in order to convert the BAN by the March 1, 2010 deadline, which would cause the District to incur further costs. This is a debt that the District already owes. The only question is when should the District start paying its debt. The District already has converted a portion of the BAN in 2005 and should convert another portion of the BAN now to permanent financing. The proposed conversion amount of $2,100,000 is reasonable.

The Staff-recommended rates will provide a 110.32% debt service coverage ratio while providing a $30,189 renewal and replacement fund and a $30,626 cash surplus, a portion of which is to be used to purchase a high-velocity cleaning system, to be amortized over five years. This is reasonable. The Staff-recommended rates would increase the District's sewer rates by approximately 13.5%. This rate increase is sufficient, but not more than sufficient, to cover the District's reasonable O&M expense, provide the proper debt service coverage ratio and generate a reasonable cash flow surplus and renewal and replacement fund to cover reasonable plant additions. To fund the purchase of the high-velocity cleaning system, Staff recommended that the Commission approve a five-year loan in this rate case, which the ALJ holds is reasonable and prudent. For these reasons, the ALJ will approve the Staff-recommended rates and charges set forth in Appendix B.

FINDINGS OF FACT

1. Lubeck Public Service District filed a *Tariff Rule* 42A application with the Commission seeking to increase its annual revenues for providing public water service by approximately $176,050.93, or 11% above going-level, and seeking to increase its annual revenues for providing public sewer service by approximately $117,033.40, or 11% above going-level, by increasing its water and sewer rates. (See, November 24, 2008 application).

2. The District submitted Tariff Form 6 and other information showing that the District had properly notified its customers of the proposed rate increases by posting, publication, separate

mailing and sending a news release to The Parkersburg News. The District published the proposed rates, once, on February 24, 2009, in *The Parkersburg News*, a newspaper published and generally circulated in Wood County. (See, March 3, 2009 filings).

3. The Notice of Hearing for the April 24, 2009 hearing was published on March 30 and April 6, 2009, in *The Parkersburg News*, a newspaper published and generally circulated in Wood County. (See, April 9, 2009 publication affidavit).

4. Commission Staff investigated the District's ongoing water and sewer operations to determine the adequacy and appropriateness of the District's O&M expenses and to determine the District's capital needs, based on a five-year average. (See, Tr., pp. 21-32).

5. Staff recommended that the District's sewer operation capital improvements include the purchase of a high-velocity pipe cleaning system, the replacement of electrical controls for the pump stations, the replacement and repair of lift stations and the replacement and repair of controls and testing equipment at the treatment plant. Staff also recommended that the District purchase some vehicles, including a dump truck, a pickup truck, and a tractor and various attachments, that would be shared by the water and sewer operations, and allocate the cost for these items at approximately 65% to the water operation and approximately 35% to the sewer operation. The District also shares personnel and the cost for personnel is allocated in the same way. (See, Tr., pp. 21-32).

6. While the District's sewage collection system has moderately high I&I problems, Staff did not recommend that the District address its I&I problems with the rates approved in this case. Rather, the District needs to seek loans and/or grants to address this problem in the context of a future certificate case, depending upon the scope of the project. (See, Tr., pp. 33-35).

7. The high-velocity cleaning system will cost approximately $40,000. (See, Tr., pp. 36-44).

8. Staff followed that same general procedure to determine the District's water operation's projected capital additions, based on the previous five years' actual experience. The largest capital addition needed for the water operation is the replacement of an additional 200 water meters per year. The District has approximately 4,200 water customers and needs to certify every water meter every 10 years. The District has not kept up with water meter testing and certification, so it needs to replace more than the average amount for the foreseeable future in order to catch up. Staff has allowed approximately $35,000 for this item. It will take the District approximately five years to catch up on the water meter replacement schedule. This project will not require additional personnel. The District also needs to improve its water treatment facility with several minor additions, such as a permanganate analyzer and a new chlorine analyzer, and the District needs to replace the filter media annually. The District needs to paint two water tanks, at an estimated cost of $600,000. (See, Tr., pp. 98-110; Staff Exhibit Nos. 3 and 4).

9. The District's unaccounted-for water is only about 6%, which is well below the 15% allowed by the Commission and which indicates that the District is doing a good job in preventing leaks and maintaining its lines. (See, Tr., pp. 98-110; Staff Exhibit Nos. 3 and 4).

10. Since the District has increased the wages of its employees, Staff has allowed for those increased wages and benefits in the Staff-recommended rates. Since gasoline costs have decreased since the test year, Staff made a going-level adjustment that includes decreased costs for gasoline. Staff made going-level adjustments for any known and measurable changes to O&M expenses. The District's debt service reserves for its sewer operation are fully funded, so Staff recommended a 110% debt service coverage ratio instead of a 115% ratio. (See, Tr., pp. 58-60).

11. The major difference between the original Staff-recommended sewer rates, set forth in Staff Exhibit No. 1, and the final recommendation, set forth in Staff Exhibit No. 2, was the inclusion of the payment to convert approximately $2,100,000 of a BAN to permanent financing. This action increases the principal loan payment by $73,680. The BAN was for the 1998 project. (See, Tr., pp. 58-60; Staff Exhibit Nos. 1 and 2).

12. The Staff-recommended sewer rates will provide a 110.32% debt service coverage ratio while providing a $30,189 renewal and replacement fund and a $30,626 cash surplus. Staff recommended that the District's sewer rates be increased by approximately 13.5%. Staff recommended increasing the total available cash by approximately $143,682, or approximately 13.5%, to $1,239,177 and recommended that the District purchase the high-velocity cleaning system out of the cash surplus or the renewal and replacement fund, not as an O&M expense, and that the purchase be amortized over five years. (See, Tr., pp. 46-58; Staff Exhibit Nos. 1 and 2).

13. Staff recommended that the Commission approve a five-year loan in this rate case for the District to purchase the high-volume cleaning system. (See, Tr., pp. 58-60; Staff Exhibit Nos. 1 and 2).

14. The District is required to convert the BAN by March 1, 2010. Staff recommended that the District convert the BAN once the rates in this case go into effect, rather than require the District to file another rate case for this sole purpose. The District intends to convert approximately 1/3 of the BAN at this time. It is required to convert a portion of the BAN periodically. It would cost the District more to convert the BAN in a separate proceeding. (See, Tr., pp. 60-68, 87-95).

15. The BAN was last converted in 2005, leaving approximately $6,200,000 owing on the BAN. The District is proposing to convert approximately $2,100,000 in this rate case. Converting the BAN accounts for most of the Staff-recommended rate increase for the District's sewer operation. The amount of the BAN conversion is proportional to the new customers which have been added to the District. This is the first rate increase that the District's sewer operation has sought since 1998. (See, Tr., pp. 68-83; Staff Exhibit Nos. 1 and 2).

16. Staff recommended a 9.53% rate increase for the water operation. At going-level, the District will have $1,605,302 in total available cash. The Staff-recommended rates will increase that

by approximately $204,095, to $1,809,397, which will provide a 136.59% debt service coverage ratio, a $44,357 renewal and replacement reserve and a $72,834 cash flow surplus. The debt service coverage includes principal and interest for a $600,000 loan to paint the two water storage tanks. (See, Tr., pp. 117-131; Staff Exhibit Nos. 3 and 4).

CONCLUSIONS OF LAW

1. The District has satisfied all notice requirements of the *Tariff Rules* and the Orders issued in this matter.

2. The Staff-recommended rates and charges for the District's water operations and sewer operations are sufficient, but not more than sufficient, to cover the District's reasonable O&M expense and debt service requirements and provide capital for plant additions.

3. It is also reasonable to approve the conversion of $2,100,00 of the BAN to permanent financing and to approve a five-year loan to purchase the high-velocity cleaner in this rate case.

ORDER

IT IS, THEREFORE, ORDERED that the rates and charges set forth in the attached Appendix A be, and hereby are, approved for use by the Lubeck Public Service District for its water operations on and after the date that this Recommended Decision becomes final.

IT IS FURTHER ORDERED that, within ten (10) days of this Recommended Decision becoming final, Lubeck Public Service District file and original and at least five copies of a proper tariff setting forth the rates and charges hereby approved for its water operation.

IT IS FURTHER ORDERED that the rates and charges set forth in the attached Appendix B be, and hereby are, approved for use by the Lubeck Public Service District for its sewer operations on and after the date that this Recommended Decision becomes final.

IT IS FURTHER ORDERED that, within ten (10) days of this Recommended Decision becoming final, Lubeck Public Service District file and original and at least five copies of a proper tariff setting forth the rates and charges hereby approved for its sewer operation.

IT IS FURTHER ORDERED that Lubeck Public Service District be, and hereby is, authorized to convert approximately $2,100,000 of the BAN to permanent financing.

IT IS FURTHER ORDERED that Lubeck Public Service District be, and hereby is, authorized to borrow approximately $40,000, to be repaid over five years, to purchase the high-velocity cleaner recommended by Staff.

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

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

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

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

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

Ronnie Z. McCann
Deputy Chief Administrative Law Judge

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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
AT CHARLESTON

CASE NO. 08-2016-PSWD-42A

LUBECK PUBLIC SERVICE DISTRICT.
Rule 42A application to increase sewer rates and water rates.

APPROVED WATER RATES

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY

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

RATES (customers with metered water supply)

First	5,000 gallons used per month	$6.99 per 1,000 gallons
Next	95,000 gallons used per month	$5.28 per 1,000 gallons
All Over	100,000 gallons used per month	$2.93 per 1,000 gallons

MINIMUM CHARGES

No minimum bill will be rendered for less than $13.97 per month which is the equivalent of 2,000 gallons of water.

5/8-inch meter	2,000 gallons	$ 13.98 per month
1-inch meter	5,000 gallons	$ 34.96 per month
2-inch meter	19,782 gallons	$111.86 per month
3-inch meter	38,589 gallons	$223.72 per month
4-inch meter	65,456 gallons	$349.56 per month
6-inch meter	158,675 gallons	$699.11 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 consumer:

4-inch service line with hydrants, sprinklers, and/or hose connections	$ 7.67
6-inch service line with hydrants, sprinklers, and/or hose connections	$12.05
8-inch service line with hydrants, sprinklers, and/or hose connections	$15.33
10-inch service line with hydrants, sprinklers, and/or hose connections	$18.62

The 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 the 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 (cents) per 100 gallons.

DELAYED PAYMENT PENALTY

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

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 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 Four Hundred Dollars ($400.00) 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

$0.43 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

SECURITY DEPOSIT

A deposit of $50.00 or two-twelfths (2/12ths) of the average annual usage of the applicant's specific customer class, 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 non-payment, an administrative fee of $15.00 shall be collected in addition to the delinquent water bill.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
AT CHARLESTON

CASE NO. 08-2016-PSWD-42A

LUBECK PUBLIC SERVICE DISTRICT.
Rule 42A application to increase sewer rates and water rates.

APPROVED SEWER RATES

APPLICABILITY
Applicable within the entire territory served.

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

RATES (customers with metered water supply)

Service charge	$8.68 per month
Usage charge	$8.92 per 1,000 gallons of water usage per month

MINIMUM CHARGE
No bill will be rendered for less than $8.68 per month.

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.

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.

SECURITY DEPOSIT
A deposit of $50.00 or two-twelfths (2/12ths) of the average annual usage of the applicant's specific customer class, whichever is greater.

DELAYED PAYMENT PENALTY

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

TAP FEE

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

A tap fee of $400.00 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

$0.85 per 1,000 gallons is to be used when the bill reflects unusual consumption which can be attributed to eligible water leakage on the customer's side of the meter. This rate shall be applied to all such unusual consumption above the customer's historical average usage.

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.

ADMINISTRATIVE FEE

Whenever a customer pays a delinquent sewer bill to personnel of Lubeck Public Service District in the course of such personnel traveling to disconnect water service for non-payment of sewer service, an administrative fee of $15.00 shall be charged.

SURFACE OR GROUNDWATER SURCHARGE

Whenever the utility has discovered that a customer's roof drain, downspout, storm sewer or similar facilities conducting surface water have been connected to the utility's sewer system, and such customer has failed to take appropriate action, within thirty (30) days of receipt of a demand by the utility in accordance with the rules of the Public Service Commission, to eliminate such connection, a surcharge will be imposed upon the customer calculated on the basis of the following formula:

$$S = A \times R \times .0006233 \times C$$

S	=	the surcharge in dollars
A	=	the area under roof and/or the area of any other water collection surface connected to the sanitary sewer, in square feet
R	=	the measured monthly rainfall as determined by the National Weather Service

C	=	the District's approved rate per thousand gallons of metered water usage
0.0006233	=	a conversion factor to change inches of rain x square feet of surface water to thousands of gallons of water

The utility shall not impose the surcharge unless and until the customer has been notified by certified mail, return receipt requested, or by hand delivery, that it has been established by smoke testing, dye testing or on-site inspection that rain or surface water is being introduced into the sanitary sewer system at the customer's location, and that the customer has not acted within thirty days from receipt of such notice to divert the water from the sanitary sewer system.

Said surcharge shall be calculated and imposed for each month that said condition continues to exist. Failure to pay the surcharge and/or correct the situation shall give rise to the possible termination of water service in accordance with the rules of the Public Service Commission of West Virginia.

LUBECK PUBLIC SERVICE DISTRICT

WATER REVENUE BOND RESOLUTION

LUBECK PUBLIC SERVICE DISTRICT

WATER REVENUE BOND RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT
BOND RESOLUTION

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LUBECK PUBLIC SERVICE DISTRICT AN THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A (BB and T) FOR SUCH PURPOSES AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; 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; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; 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 adopted pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act).

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

A. Lubeck Public Service District (the "Issuer"), is a public service district, public corporation and political subdivision of the State of West Virginia in Wood County of said State.

B. The Issuer now owns and operates a public water system within Wood County. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain improvements and extensions to the existing public water facilities of the Issuer, consisting of the cleaning, repairing, sandblasting, painting, and other improvements for the New England Ridge Water Storage Tank (a 200,000 gallon capacity elevated, column supported type water storage tank) and the Homewood Road Water Storage Tank (a

500,000 gallon capacity ground type water storage tank), together with the necessary appertaining work and any other water supply, treatment, distribution or storage improvements deemed necessary by the Issuer, together with all appurtenant facilities (collectively, the "Project"), which constitute public service properties for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (the existing public water 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, which plans and specifications have heretofore been filed with the Issuer.

C. It is deemed necessary for the Issuer to issue its Water Revenue Bonds, Series 2010 A (BB and T) (the "Bonds" or "Series 2010 A Bonds"), in an aggregate principal amount of not more than $600,000, to permanently finance the costs of acquisition and construction of the Project, and to pay the costs of issuance of the Bonds and related costs.

D. The acquisition and construction of the System were financed or refinanced with proceeds of certain obligations of the Issuer, which obligations are designated and have lien positions with respect to the Bonds as follows:

	Designation	Lien Position
1.	$3,139,013 Water Revenue Bonds, Series 1990 A, dated April 2, 1990 (the "Series 1990 A Bonds").	First Lien
2.	$535,000 Water Revenue Bonds, Series 1997, dated March 27, 1997 (the "Series 1997 Bonds").	First Lien
3.	$1,573,000 Water Revenue Bonds, Series 2005 A, dated June 17, 2005 (the "Series 2005 A Bonds").	First Lien
4.	$2,068,300 Water Revenue Bonds, Series 2005 B, dated June 17, 2005 (the "Series 2005 B Bonds").	First Lien
5.	$472,000 Water Revenue Bonds, Series 2005 C, dated June 17, 2005 (the "Series 2005 C Bonds").	First Lien
6.	$146,487 Water Revenue Bonds, Series 1990 B, dated April 2, 1990 (the "Series 1990 B Bonds").	Second Lien

The Series 1990 A Bonds, the Series 1997 Bonds, the Series 2005 A Bonds, the Series 2005 B Bonds and the Series 2005 C Bonds, are sometimes referred to collectively as the "First Lien Bonds." The First Lien Bonds and the Series 1990 B Bonds are sometimes referred to collectively as the "Prior Bonds."

E. The Issuer derives revenues from the System, and, except for the pledges thereof to secure and pay the Prior Bonds, said revenues are not pledged or encumbered in any manner.

F. 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 Operating Expenses of the System, the principal of and interest on the Prior Bonds and the Series 2010 A Bonds and all funds and accounts and other payments provided for in this Resolution and the Prior Resolutions.

G. The Bonds and the Certificate of Authentication and Registration to be endorsed thereon are to be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference with necessary and appropriate variations, omissions and insertions as permitted or required by this Resolution or a Supplemental Resolution or as deemed necessary by the Registrar or the Issuer.

H. All things necessary to make the Bonds, when authenticated by the Registrar and issued as in this Resolution provided, the valid, binding and legal special obligations of the Issuer according to the import thereof, and to validly pledge and assign those funds pledged hereby to the payment of the principal of and interest on the Bonds, will be timely done and duly performed.

I. The adoption of this Resolution, and the execution and issuance of the Bonds, subject to the terms thereof, will not result in any breach of, nor constitute a default under, any instrument to which the Issuer is a party or by which it may be bound or affected.

J. Branch Banking and Trust Company has offered to purchase the Bonds (the "Purchaser"). It is in the best interests of the Issuer that the Bonds be sold to the Purchaser pursuant to the terms and provisions set forth herein and in the Supplemental Resolution.

K. The Bonds shall have a lien on the Net Revenues on a parity with the lien held by the registered owners of the First Lien Bonds and senior and prior to the lien held by the registered owners of the Series 1990 B Bonds. No additional bonds shall be issued by the Issuer with a lien on the Net Revenues of the System except in accordance with Section 6.07 hereof and not until the Issuer obtains the consent from the registered owners of the First Lien Bonds and the Series 1990 B Bonds.

L. The Issuer has complied with all requirements of West Virginia law relating to the issuance of the Bonds, or will have so complied prior to the issuance of any thereof, including, among other things, the obtaining of the approval of the issuance

of the Bonds by the Public Service Commission of West Virginia by final order not subject to appeal or rehearing.

M. The Issuer will not permit, at any time, any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Code.

N. The Issuer and all subordinate entities of the Issuer reasonably expect to issue $30,000,000 or less in tax exempt obligations during calendar year 2010.

Section 1.03. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds 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 Registered Owners, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds issued hereunder, all of which shall be of equal rank and without preference, priority or distinction between any one Bond and any other Bond by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. Except as provided below, terms used in this Resolution have the meanings set forth in the Prior Resolutions, as supplemented by this Resolution, unless the context expressly requires otherwise.

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

"Authorized Officer" means the Chairperson of the Governing Body of the Issuer or any other temporarily Acting Chairperson of the Issuer specifically designated by resolution of the Governing Body of the Issuer.

"Bond Counsel" shall mean any law firm having a national reputation in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds, appointed by the Issuer, and shall initially mean Jackson Kelly PLLC, Charleston, West Virginia.

"Bond Register" shall mean the books of the Issuer maintained by the Registrar for the registration and transfer of the Bonds.

"Bond Resolution," "Bond Legislation," "Resolution" or "Local Act" shall mean this Bond Resolution and all orders and resolutions supplemental or amendatory hereto.

"Bond Year" shall mean 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.

"Bondholder" or "Holder of the Bonds" or "Owner of the Bonds" or "Registered Owner" or any similar term shall mean any person who shall be the Registered Owner of any Outstanding Bond as hereinafter defined.

"Bonds" or "2010 A Bonds" shall mean the not more than $600,000 in aggregate principal amount of Water Revenue Bonds, Series 2010 A (BB and T) of the Issuer, authorized by this Resolution to be issued.

"Chairperson" shall mean the Chairperson of the Governing Body of the Issuer or any temporary Acting Chairperson duly elected by the Governing Body.

"Closing Date" shall mean the date or dates upon which there is an exchange of the Bonds for all or a portion of the proceeds of the Bonds from the Purchaser.

"Code" shall mean 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.

"Construction Trust Fund" shall mean the Construction Trust Fund created by Section 4.01C hereof.

"Consulting Engineers" shall mean Burgess & Niple Inc., Parkersburg, West Virginia, or any engineer or firm of engineers, licensed by the State, which shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System in accordance with Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended.

"Commitment Letter" shall mean the letter from the Purchaser setting forth the terms and conditions for the purchase of the Bonds.

"Depository Bank" shall mean the bank, banks or credit union to be designated as such in the Supplemental Resolution, and its successors and assigns.

"First Lien Bonds" shall mean those bonds described as such in Section 1.02D of this Resolution.

"Fiscal Year" shall mean each twelve month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" or "Board" shall mean the public service board of the Issuer or any other governing body of the Issuer that succeeds to the functions of the public service board as presently constituted.

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

"Independent Accountants" or "Independent Certified Public Accountants" shall mean any firm of certified public accountants which shall be retained by the Issuer as independent accountants for the System.

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

"Nonpurpose Investment" means any Investment Property as defined in Section 148(b) of the Code, that is not a purpose investment.

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

"Outstanding" when used with reference to Bonds, as of any particular date, describes all such Bonds theretofore and thereupon being authenticated and delivered, except (i) any such Bond canceled by the Registrar, at or prior to said date; (ii) any such Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity of any such Bond, shall be in trust hereunder and set aside for such payment (whether upon or prior to maturity); (iii) any such Bond deemed to have been paid as provided in Section 7.01 hereof; and (iv) for purposes of consents or

other action by a specified percentage of Bondholders, any such Bond registered to the Issuer.

"Parity Bonds" shall mean the Parity Bonds issued under the provisions and within the limitations prescribed by Section 6.07 hereof.

"Paying Agent" shall mean the bank or such other entity to be designated as the Paying Agent for the Bonds in the Supplemental Resolution and its successors and assigns.

"Prior Bonds" shall mean the First Lien Bonds and the Series 1990 B Bonds of the Issuer.

"Prior Resolutions" shall mean the resolutions of the Issuer authorizing the Prior Bonds.

"Private Business Use" shall mean 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, all as determined by the Code.

"PSC" shall mean the Public Service Commission of West Virginia.

"PSC Order" shall mean the orders of the PSC dated November 13, 2009 and December 3, 2009 in Case No. 08-2016-PSWD-42A approving the construction of the Project and the rates of the Issuer.

"Purchase Price," for the purpose of computation of the Yield of the Bonds, has the same meaning as the term "issue price" in Sections 1273(b) and 1274 of the Code, and, in general, means the price paid by the first buyer of the Bonds or the acquisition cost of the first buyer. "Purchase Price," for purposes of computing Yield of Nonpurpose Investments, means the fair market value of the Nonpurpose Investments on the date of use of Gross Proceeds of the Bonds for acquisition thereof, or if later, on the date that Investment Property constituting a Nonpurpose Investment becomes a Nonpurpose Investment of the Bonds.

"Purchaser" shall mean Branch Banking and Trust Company, Charleston, West Virginia.

"Qualified Investments" shall mean and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from

Government Obligations or interest coupons stripped from Government Obligations;

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

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

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

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

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of the 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 agreements shall have a prior perfected security interest in the collateral therefore; must have (or its agency must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 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 Investors Service, Inc. or Standard & Poor's Corporation.

"Rebate Fund" shall mean the Rebate Fund created by Section 4.02 hereof.

"Registrar" shall mean the entity named as such in the Supplemental Resolution.

"Regulations" shall mean the temporary and permanent regulations promulgated under the Code.

"Renewal and Replacement Fund" shall mean the Renewal and Replacement Fund created by the Prior Resolutions and continued by Section 4.04 hereof.

"Reserve Accounts" shall mean, collectively, the respective Reserve Accounts created for the Prior Bonds and the Bonds.

"Reserve Requirement" means, collectively, the respective amounts required to be on deposit in the Reserve Accounts.

"Resolution" or "Bond Resolution" shall mean this Bond Resolution and all orders and resolutions supplemental hereto or amendatory hereof.

"Revenue Fund" shall mean the Revenue Fund created by the Prior Resolutions and continued hereby.

"Secretary" shall mean the Secretary of the Issuer.

"Sinking Funds" shall mean, collectively, the respective Sinking Funds created for the Prior Bonds and the Bonds.

"Series 1990 B Bonds" shall mean those bonds described as such in Section 1.02D of this Bond Resolution.

"Series 2010 A Bonds Sinking Fund" shall mean the Series 2010 A Bonds Sinking Fund created by Section 4.04 hereof.

"Series 2010 A Bonds Reserve Account" means the Series 2010 A Bonds Reserve Account created by Section 4.04 hereof.

"Series 2010 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2010 A Bonds in the then current or any succeeding year.

"State" shall mean the State of West Virginia.

"Supplemental Resolution" shall mean any resolution, ordinance 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 Bonds; provided, that any matter intended by this Resolution to be included in the Supplemental Resolution with respect to the Bonds and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" shall mean the Net Revenues not required by the Prior Resolutions and this Resolution, as supplemented and amended, to be set aside and held in, including but not limited to, any sinking funds, reserve accounts and depreciation accounts.

"System" means the complete public service properties of the Issuer for the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses as presently existing in its entirety or any integral part thereof, and shall include the Project and any additions, improvements and extensions thereto hereafter constructed or acquired for the System from any sources whatsoever.

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

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 enactment of this Resolution.

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

ARTICLE II
AUTHORIZATION OF THE ACQUISITION AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at

an estimated cost not to exceed $600,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2010 A Bonds shall be applied as provided in Article IV hereof. The Issuer has received bids and will enter into contracts for the acquisition and construction of the Project, in an amount and otherwise compatible with the financing plan submitted to the Purchaser.

The cost of the Project is estimated not to exceed $600,000, which will be obtained from proceeds of the Series 2010 A Bonds.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS

Section 3.01. Authorization and Terms of Bonds. For the purposes of capitalizing interest on the Bonds, funding the Reserve Account for the Bonds, paying costs of issuance of the 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 the Bonds of the Issuer. The Bonds shall be issued in one series as set forth in the Supplemental Resolution, designated as "Water Revenue Bonds, Series 2010 A (BB and T)", in an aggregate principal amount of not more than $600,000. The Bonds shall be issued in such principal amounts, shall have the series designation, shall be dated as of the date of delivery thereof, shall bear interest at such rate or rates, not exceeding the then legal maximum rate, and shall mature at such times and in such amounts as shall be set forth in the Supplemental Resolution. The repayment of principal and interest, if any, on the Bonds shall be as set forth in the Supplemental Resolution. The Bonds shall contain such other terms, provisions, conditions and limitations, all as provided by this Resolution and as the Governing Body of the Issuer shall prescribe by resolution (or by supplemental or amendatory resolution of said Governing Body as said Governing Body shall determine) adopted in connection with the sale of such Bonds.

The Bonds shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar.

Each series of Bonds shall be issued in fully registered form, in such denominations and shall have such terms as set forth in the Supplemental Resolution. The Bonds shall be exchangeable at the option and expense of the Registered Owner for another fully registered Bond in aggregate principal amount equal to the amount of the Bonds then Outstanding, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of the Bonds.

Section 3.02. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Chairperson 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 Exhibit A, shall have been duly manually executed by the 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 Registrar if manually signed by an authorized officer of the 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 Registered Owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Registered Owner shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide owner for value.

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

Bonds shall be transferable only upon the books of the Registrar, by the Registered Owner thereof in person or by the Registered Owner's attorney duly authorized in writing, upon surrender thereto, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or the Registered 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 Registrar. For every such exchange or transfer of Bonds, the 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 Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer.

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 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 may incur and the Registrar shall authenticate the new Bond. All Bonds so surrendered shall be canceled by the 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 a corporate indebtedness of the Issuer within the meaning of any statutory or constitutional limitations, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power 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 the Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the First Lien Bonds and senior and prior to the Series 1990 B Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund established herein or in the Prior Resolutions are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 3.08. Form of Bonds. The text of the Bonds shall be substantially as set forth in Exhibit A, with such omissions, insertions and variations as may be

necessary and desirable and authorized or permitted by this Resolution or any subsequent resolutions adopted or enacted prior to the issuance thereof.

Section 3.09. Sale of Bonds. The Bonds shall be sold to the Purchaser pursuant to the terms and conditions of the Commitment Letter.

Section 3.10. Designation of Bonds as "Qualified Tax-Exempt Obligations." The Issuer hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3)(B) of the Code and covenants that the Bonds do no constitute private activity bonds as defined in Section 141 of the Code, and that not more than $30,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Code) from gross income for federal income tax purposes (excluding, however, obligations issued to currently refund any obligation of the Issuer to the extent the amount of the refunding obligation does not exceed the amount of the refunded obligation and private activity bonds, as defined in Section 141 of the Code, other than qualified 501(c)(3) bonds as defined in Section 145 of the Code), including the Bonds, have been or shall be issued by the Issuer, including all subordinate entities of the Issuer, during the calendar year 2010, all as determined in accordance with the Code.

ARTICLE IV
APPLICATION OF BOND PROCEEDS; FUNDS AND ACCOUNTS

Section 4.01. Application of Bond Proceeds. From the moneys received from the sale of the 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 Paying Agent in the Series 2010 A Bonds Sinking Fund, the amount, if any, set forth in the Supplemental Resolution as capitalized interest for the Bonds.

B. Next, from the proceeds of the Bonds, there shall be deposited with the Paying Agent in the Reserve Account, the amount, if any, set forth in the Supplemental Resolution for funding of the Reserve Account.

C. There is hereby created and established with the Depository Bank a special fund, designated the "Construction Trust Fund". The remaining moneys derived from the sale of the Bonds shall be deposited by the Issuer in the Construction Trust Fund. Moneys in the Construction Trust Fund shall be used solely to pay the costs of acquisition and construction of the Project and the costs of issuance of the Bonds. The Construction Trust Fund shall be governed by the Project Fund Agreement to be entered into between the Issuer and the Purchaser. All costs of issuance shall be paid within 60 days of the Closing Date.

Section 4.02. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are hereby created with (or continued if previously established by the Prior Resolutions) and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and the Issuer and from each other:

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

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

(3) Construction Trust Fund (established by Section 4.01C above);

(4) Series 2010 A Bonds Rebate Fund; and

(5) Series 2010 A Bonds Sinking Fund.

Section 4.03. 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 Reserve Account.

Section 4.04. Flow of Funds. 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 Resolution and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided. All moneys 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 the current 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 (i) the amount necessary to pay the interest on the First Lien Bonds as prescribed in the Prior Resolutions; and (ii) to the Paying Agent, an amount equal to the amount of interest which will become due on the Bonds on the next monthly interest payment date.

(3) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) the amount necessary to pay the principal on the First Lien Bonds as prescribed in the Prior Resolutions; and (ii) to the Paying

Agent, an amount equal to the amount of principal which will mature and become due on the Bonds on the next monthly principal payment date.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and simultaneously remit (i) the amount necessary to pay the required Reserve Account payments for the First Lien Bonds as prescribed by the Prior Resolutions; and (ii) to the Commission, if not fully funded upon issuance of the Bonds, for deposit in the Series 2010 A Bonds Reserve Account, an amount equal to $1/120^{th}$ of the Series 2010 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2010 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2010 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit the amount necessary to pay the principal on the Series 1990 B Bonds as prescribed in the Prior Resolutions.

(6) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit the amount necessary to pay the required Reserve Account payment for the Series 1990 B Bonds as prescribed in the Prior Resolutions.

(7) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund to the Renewal and Replacement Fund the amounts required by the Prior Resolutions.

Moneys in the Series 2010 A Sinking Fund shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due. Moneys in the Series 2010 A Bonds Reserve Account shall be used only for the purposes of paying principal of and interest on the Bonds as the same shall become due, when other moneys in the Series 2010 A Bonds Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the Series 2010 A Bonds Reserve Account shall be transferred, not less than once each year, to the Series 2010 A Bonds Sinking Fund.

Any withdrawals from the Series 2010 A Bonds Reserve Account which result in a reduction in the balance therein to below the applicable reserve requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 2010 A Bonds Sinking Fund for payment of debt service on the Bonds have been made in full.

Moneys in the Series 2010 A Bonds Sinking Fund and the Series 2010 A Bonds Reserve Account shall be invested and reinvested by the Paying Agent and Commission, respectively, in accordance with Section 4.05 hereof.

If, on any monthly payment date, the revenues are insufficient to place the required amount in any of the funds or accounts as provided herein and in the Prior Resolutions, the deficiency shall be made up in subsequent payments, in addition to the payments which would otherwise be required to be made into the funds and accounts on subsequent payment dates.

Interest, principal or reserve payments, whether made for a deficiency or otherwise, shall be made on a parity and pro rata, with respect to the First Lien Bonds and the Bonds, in accordance with the respective principal amounts then Outstanding.

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 Paying Agent the required interest and principal payments with respect to the Bonds and deposit with the Commission, the required reserve account payments.

Except as provided above and in the Supplemental Resolution, all sinking fund, reserve account, payments shall remain as governed by the Prior Resolutions and Renewal and Replacement Fund.

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

Section 4.05. Investments. Any moneys held as a part of the funds and accounts created by this Resolution, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Paying Agent, the Depository Bank or such other bank, national banking association or credit union holding such fund or account, as the case may be, at the direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Resolution, the Prior Resolutions, the need for such moneys for the purposes set forth herein and the specified restrictions and provisions set forth in this Section 4.05.

Any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount. The Commission, the Paying Agent, the Depository Bank or such other bank, national banking association or credit union, 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 of such liquidation. The Paying Agent, the Depository Bank or such other bank, national banking association or credit union may make any and all investments permitted by this section through its own investment or trust 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 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 Bonds are Outstanding and as long thereafter as necessary to comply with the Code and assure the exclusion of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE V

DEFAULT AND REMEDIES

Section 5.01. Events of Default. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

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

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Resolution, any supplemental resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Paying Agent, the Depository Bank, the Registrar, the Paying Agent or any other Paying Agent or a Registered Owner of a Bond; 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 5.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Resolution relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Bonds; (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Bonds shall be on parity with those of the Registered Owners of the First Lien Bonds and senior and prior to the Registered Owners of the Series 1990 B Bonds.

Section 5.03. Appointment of Receiver. Any Registered Owner of a Bond may, by proper legal action, compel the performance of the duties of the Issuer under the Ordinance and the Act, including, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to the Bonds, any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with the power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Resolution and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of the System and shall hold, operate and maintain, manage and control 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 Bonds and interest thereon and under any covenants of this Resolution for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Resolution shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

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

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto

under the provisions of this Resolution, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

ARTICLE VI

ADDITIONAL COVENANTS OF THE ISSUER

All the covenants, agreements and provisions of the Prior Resolutions shall remain in full force and effect as long as the Prior Bonds are outstanding and shall apply to the Bonds as if fully set out herein. The following covenants are supplemental and in addition to the covenants set forth in the Prior Resolutions.

Section 6.01. 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 Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Registered Owner of the Bonds as hereinafter provided in this Article VI. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of the Bonds or the interest, if any, thereon is Outstanding and unpaid.

Section 6.02. Bonds not to be Indebtedness of the Issuer. The Bonds shall not be nor constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Registered Owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest, if any, thereon.

Section 6.03. Bonds Secured by Pledge of Net Revenues; Lien Position with respect to Prior Bonds. The payment of the debt service of the Bonds shall be secured by a first lien on the Net Revenues derived from the System on a parity with the First Lien Bonds and senior and prior to the lien of the Series 1990 B Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and the Prior Bonds and to make the payments into the sinking funds and the reserve accounts therein and in the Renewal and Replacement Fund established herein or in the Prior Resolutions are hereby irrevocably pledged to the payment of the principal of and any interest on the Bonds and the Prior Bonds as the same become due.

Section 6.04. 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. 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 approved.

So long as the 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. In the event the schedule of rates and charges initially established for the System in connection with the Bonds shall prove to be insufficient to produce the required sums set forth in this Bond Legislation, the Issuer hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges and take all such actions necessary to provide funds sufficient to produce the required sums set forth in this Bond Legislation.

Section 6.05. 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 Resolutions. Additionally, so long as the Bonds are outstanding and except as otherwise required by law or with the written consent of the Purchaser, 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 VII hereof. A portion of proceeds from any such sale, mortgage, lease or other disposition of the System that is sufficient to pay the entire outstanding principal and interest on the Bonds shall, with respect to the Bonds, immediately be remitted to the Paying Agent for deposit in the Series 2010 A Bonds Sinking Fund and the Issuer shall direct the Paying Agent to apply such proceeds to the payment of principal of and interest, if any, on the Bonds. Any balance remaining after the payment of the Bonds and the interest, if any, thereon shall be remitted to the Issuer by the Paying Agent.

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 in accordance with the laws of the State. The proceeds

derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of $10,000 and not in excess of $50,000, shall, with the written consent of the Purchaser, be deposited in the Renewal and Replacement Fund. Such payment of such proceeds into the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation.

No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of $50,000 and insufficient to pay all Bonds then Outstanding, without the prior approval and consent in writing of the Registered Owners of the Bonds then Outstanding. The Issuer shall prepare the form of such approval and consent for execution by the then Registered Owners of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 6.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided for in Section 6.07 hereof, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds. All obligations issued by the Issuer after the issuance of the 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 and source of and security for payment from such revenues and in all other respects, to the Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into all funds and accounts established by this Bond Legislation 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 Bonds, and the interest, if any, thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

The Issuer shall give the Purchaser prior written notice of its issuance of any other obligations to be used for the System, payable from the revenues of the System or from any grants for the Project, or any other obligations related to the Project or the System.

Section 6.07. Parity Bonds. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Resolutions shall be applicable.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Bonds.

No such Parity Bonds shall be issued except for the purpose of financing the costs of design, acquisition or construction of additions, extensions, improvements or betterments to the System or refunding any Bonds or Prior Bonds outstanding, 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 and Prior 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, the Prior 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 and the Prior Resolutions. All such

Bonds, First Lien Bonds and Parity Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Net Revenues of the System, and their source of and security for payment from the Net Revenues, without preference of any Bond over any other, and the Bonds, First Lien Bonds and Parity Bonds shall be prior and senior to the Series 1990 B Bonds. 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 the revenues of the System is subject to the prior and superior lien of the Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Bonds.

No Parity Bonds shall be issued at any time, however, unless all of the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Resolutions with respect to the Bonds and Prior Bonds then Outstanding, and any other payments provided for in this Bond Legislation and the Prior Resolutions, shall have been made in full as required to the date of delivery of the Parity Bonds, and the Issuer then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Resolutions and every ordinance supplemental thereto, or shall have fully corrected any delinquency or deficiency in such payments and compliance.

Section 6.08. Books; Records and Audit. 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 mail in each year to all Registered Owners of the Bonds 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, Prior Bonds, notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants (and to the extent legally required in compliance with the applicable OMB Circular, or any successor thereto, and the Single Audit Act, or any successor thereto), and shall mail and make available generally, the report of the Independent Certified Public Accountants, or a summary thereof, to any Registered Owner of the Bonds. Such audit report submitted to the Purchaser 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, reserve and coverage requirements.

Section 6.09. Rates. Prior to the issuance of the 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 the 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 and meet the requirements of the Prior Resolutions.

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 First Lien 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 First Lien 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 First Lien Bonds.

The Issuer hereby covenants to file with the Public Service Commission of West Virginia to increase the rates and charges for the services and facilities of the System within 60 days following a determination of the Issuer that less than the above-required coverage exists or in the event that the annual audit report shows less than the above-required coverage, such increase to provide rates and charges sufficient to produce such required coverage.

Section 6.10. Operating Budget. The Issuer shall annually, at least 30 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated revenues and expenditures for operation and maintenance of the System during the succeeding Fiscal Year and shall submit a copy of such budget to the Purchaser 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 by 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 Registered Owner of the 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 any Registered Owner of the Bonds, or anyone acting for and on behalf of such Registered Owner.

Section 6.11. Insurance and Bonds. A. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

> (i) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, to be procured immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the full insurable value thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will

require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

(ii) Public Liability Insurance, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Bonds.

(iii) Vehicular Public Liability Insurance, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than $500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than $200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

(iv) Workers' Compensation Coverage for All Employees of the District Eligible Therefor and Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds have been or will be filed with the Clerk of the County Commission of said County prior to commencement of any construction in compliance with West Virginia Code Section 38-2-39. Workers' compensation coverage shall be maintained as required by the laws of the State of West Virginia.

(v) Flood Insurance to be procured, to the extent available at reasonable cost to the Issuer.

(vi) Fidelity Bonds will be provided as to every member of the Governing Body and as to every officer and employee thereof having custody of the Revenue Fund or of any revenues or other funds of the Issuer in an amount at least equal to the total funds in the custody of any such person at any one time, and initially in the amount of $50,000, upon the treasurer.

(vii) Provided, however, notwithstanding the foregoing provisions of this Section, so long as the Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer.

B. All insurance proceeds awarded to the Issuer that are not applied to the repair or replacement of the subject property damaged or destroyed, shall be applied by the Issuer to prepayment of the Bonds, unless otherwise consented to in writing by the Bondholder.

Section 6.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided as long as the Bonds are outstanding.

Section 6.13. Compliance With Law. The Issuer hereby covenants and agrees to perform, satisfy and comply with all terms, conditions and requirements of all applicable laws, rules and regulations issued by the State, federal or local bodies in regard to the operation, maintenance and use of the System.

Section 6.14. Tap Fees. All tap fees shall be deposited into a construction fund provided that if a construction project is not under way then the tap fees shall be deposited into the Revenue Fund.

Section 6.15. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PUBLIC PURPOSE BONDS. The Issuer shall use the Bond proceeds solely for the costs of acquisition and construction of the Project and costs of issuance and as otherwise set forth herein.

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

C. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of the lesser of 5% of the proceeds of the Bonds or $5,000,000 are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

D. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would

be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

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

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

G. QUALIFIED TAX-EXEMPT OBLIGATION STATUS. The Issuer does not reasonably expect to issue more than $30,000,000 of tax-exempt obligations during the calendar year 2010 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

Section 6.16. Reserved.

Section 6.17. Arbitrage. The Issuer covenants that (i) it will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Bonds which would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 6.18. Tax Certificate and Rebate. The Issuer shall deliver a certificate of arbitrage, a tax certificate or other similar certificate to be prepared by nationally recognized bond counsel or tax counsel relating to payment of arbitrage rebate and other tax matters as a condition to issuance of the Bonds. In addition, the Issuer covenants to comply with all Regulations from time to time in effect and applicable to the Bonds as may be necessary in order to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds and fully comply with Section 148(f) of the Code, and covenants to take such actions, and refrain from taking such actions, as may be necessary to fully comply with such Section 148(f) of the Code and such Regulations, regardless of whether such actions may be contrary to any of the provisions of the Resolution.

If it is determined that the Issuer does not qualify for an exception to Section 148 of the Code or the Issuer is otherwise subject to rebate in connection with the

Bonds, the Issuer shall calculate, annually, the rebatable arbitrage, determined in accordance with Section 148(f) of the Code. Upon completion of each such annual calculation, unless otherwise agreed by the Purchaser, the Issuer shall deposit, or cause to be deposited, with the Depository Bank in a separate fund designated the Rebate Fund, such sums as are necessary to cause the aggregate amount on deposit in the Rebate Fund to equal the sum determined to be subject to rebate to the United States, which, notwithstanding anything herein to the contrary, shall be paid from investment earnings on the underlying fund or account established hereunder and on which such rebatable arbitrage was earned or from other lawfully available sources. Notwithstanding anything herein to the contrary, the Rebate Fund shall be held free and clear of any lien or pledge hereunder, if any, and used only for payment of rebatable arbitrage to the United States. The Issuer shall pay, or cause to be paid, to the United States, from the Rebate Fund, the rebatable arbitrage in accordance with Section 148(f) of the Code and such Regulations. In the event that there are any amounts remaining in the Rebate Fund following all such payments required by the preceding sentence, the Depository Bank shall pay said amounts to the Issuer to be used for any lawful purpose of the System. The Issuer shall remit payments to the United States in the time and at the address prescribed by the Regulations as the same may be from time to time in effect with such reports and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required, the Issuer shall assure that such payments are made by the Issuer to the United States, on a timely basis, from any funds lawfully available therefor. In addition, the Issuer shall cooperate with the Purchaser in preparing rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Purchaser at the expense of the Issuer. The Issuer may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the Issuer may deem appropriate in order to assure compliance with this Section 6.18. The Issuer shall keep and retain, or cause to be kept and retained, records of the determinations made pursuant to this Section 6.18 in accordance with the requirements of Section 148(f) of the Code. In the event the Issuer fails to make such rebates as required, the Issuer shall pay the required rebate amount and all interest, penalties and other amounts, from lawfully available sources, and obtain a waiver from the Internal Revenue Service, if necessary, and take any other actions necessary, in order to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes.

ARTICLE VII

PAYMENT OF BONDS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Registered Owners of the Series 2010 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 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 on the Series 2010 A Bonds from gross income for federal income tax purposes.

Section 7.02. Prepayment of Bonds. The Issuer shall have the right to prepay the Bonds in whole on a principal payment date with a 1% prepayment premium. The Issuer shall not have the right to prepay the Bonds in part.

ARTICLE VIII

MISCELLANEOUS

Section 8.01. Modification or Amendment. Prior to the issuance of the Bonds, this Resolution may be amended or supplemented in any way by a Supplemental Resolution. Following issuance of the Bonds, no material modification or amendment of this Resolution or of any ordinance or resolution amendatory hereof or supplemental hereto which would materially and adversely affect the rights of Registered Owners shall be made without the consent in writing of the Registered Owners of the Bonds then Outstanding and to be affected by said modification; provided, however, that no change shall be made in the maturity of any Bonds or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the revenues of the System without the consent of the Registered Owner thereof. No amendment or modification shall be made which would reduce the percentage of the principal amount of Bonds required for consent to the above permitted amendments or modifications. Notwithstanding the foregoing, this Resolution may be amended without the consent of any Registered Owner as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the exclusion of interest on the Bonds from gross income of the Registered Owners thereof.

Section 8.02. 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, the Supplemental Resolution or the Bonds.

Section 8.03. Repeal of Conflicting Ordinances. All resolutions and orders, or parts thereof, other than the Prior Resolutions, in conflict with this Resolution are, to the extent of such conflict, repealed.

Section 8.04. 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 a Chairperson, a 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 8.05. Effective Date. This Resolution shall take effect immediately following passage.

Chairperson

CERTIFICATE OF TRUTH AND ACCURACY

I, the undersigned, as Secretary of Lubeck Public Service District, Wood County, West Virginia, do hereby certify that the foregoing document is a true and accurate copy of the official record of Lubeck Public Service District, such records being in the custody of the undersigned and maintained at Lubeck Public Service District, Washington, Wood County, West Virginia, and that the action taken by the Public Service Board in the foregoing document remains in full force and effect and has not been amended.

Dated this 13 day of May, 2010.

Secretary

[SEAL]

EXHIBIT A

FORM OF SERIES 2010 A BOND

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A (BB and T)

NUMBER: A-1 INTEREST RATE: 4.74%

MATURITY DATE: June 1, 2025 BOND DATE: May 14, 2010

REGISTERED OWNER: BRANCH BANKING AND TRUST CO.

PRINCIPAL AMOUNT: FIVE HUNDRED NINETY THOUSAND DOLLARS ($590,000)

KNOW ALL MEN BY THESE PRESENTS THAT the LUBECK PUBLIC SERVICE DISTRICT, (hereinafter called the "Issuer"), for value received, promises to pay to the order of Branch Banking and Trust Co., or its registered assigns (the "Purchaser"), but solely from the sources and in the manner hereinafter provided, the principal sum of FIVE HUNDRED NINETY THOUSAND DOLLARS ($590,000), in lawful money of the United States of America, together with interest on the unpaid principal balance thereof from the date of advance as endorsed hereon until paid, as follows:

The Bonds shall be payable and shall mature as follows:

(A) Interest shall be at a fixed rate of 4.74% per annum and shall be determined on the basis of a 365/360 day actual year times the actual principal amount of the Bonds outstanding up to and including the day immediately preceding the interest payment date.

(B) Payments of principal and interest shall be made on the 1st day of each month, beginning July 1, 2010 ("Principal and Interest Payment Dates"). This Bond shall be amortized in 180 payments over a period of 15 years, as described in Exhibit A. Such

payments shall be payable by check or draft mailed to the Paying Agent or by wire transfer, as directed by the Purchaser.

(C) Notwithstanding any other provision of this Bond or the Resolution to the contrary, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), the rate of interest on the Bonds shall be payable at the rate of 2% above the prime rate published in the money rate column of the Wall Street Journal, as the same may change from time to time from the date of determination (the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date upon which a Determination of Taxability becomes effective, and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includable in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability and any interest being past due by reason of such increase shall become immediately due and payable; further, the present or former owners of the Bonds shall be entitled to payment, on demand, of any Special Charges. Special Charges means (a) an amount equal to any penalties or interest paid to the Internal Revenue Service or to the State by the present and former owners of the Bonds resulting from the failure to include interest on the Bonds in their gross income for purposes of determining their federal income tax or State income tax, plus any tax payable by them as a consequence of the receipt of such amount; plus (b) an amount equal to all reasonable administrative, out-of-pocket and other expenses, including legal fees and costs, incurred by the present and former holders which are directly or indirectly attributable to interest on the Bonds becoming subject to federal or State income tax as a result of the failure to include interest on the Bonds in their gross income for purposes of determining their federal or State income tax, including, without limitation, costs incurred by the present and former Bondholders in amending their federal or State tax returns. Principal and interest on this bond are payable by the Issuer on the Principal and Interest Payment Dates. The principal of and interest on this Bond are payable in lawful money of the United States of America without deduction for the services of the paying agent.

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 WATER REVENUE BONDS, SERIES 1990 A, DATED APRIL 2, 1990, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,139,013; WATER REVENUE BONDS, SERIES 1997, DATED MARCH 27, 1997, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $535,000; WATER REVENUE BONDS, SERIES 2005 A, DATED JUNE 17, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,573,000; WATER REVENUE BONDS, SERIES 2005 B, DATED JUNE 17, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,068,300; AND WATER

REVENUE BONDS, SERIES 2005 C, DATED JUNE 17, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $472,000 (THE "FIRST LIEN BONDS"). THE BONDS SHALL BE SENIOR AND PRIOR WITH RESPECT TO LIENS, PLEDGE AND SOURCE AND SECURITY FOR PAYMENT AND IN ALL RESPECTS WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1990 B, DATED APRIL 2, 1990, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $146,487 (THE "SERIES 1990 B BONDS").

This Bond is issued with the intent that the laws of the State of West Virginia shall govern its construction. This Bond constitutes the entire issuance of an authorized issue of Water Revenue Bonds, Series 2010 A (BB and T) (the "Bonds"), issued in the aggregate principal amount of $590,000 pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), for the purpose of financing all or a portion of the cost of the acquisition and construction of certain additions and betterments to the Issuer's Waterworks System (the "Project") and the cost of issuance thereof. The Bonds are issued under and are equally and ratably secured by and entitled to the protection of the Bond Resolution adopted by the Issuer on_May 13, 2010 (the "Bond Resolution") and supplemented and amended by the Supplemental Resolution adopted on May 13, 2010 (collectively, the "Resolution").

An executed counterpart of the Resolution is on file at the office of said Issuer. The Resolution contains provisions for the issuance of Parity Bonds. Reference is hereby made to the Resolution and Supplemental Resolutions supplemental thereto for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, the special subaccounts and revenues charged with and pledged to the payment of the principal of and interest on the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are issued, the terms and conditions under which Additional Bonds may be issued, the rights, duties and obligations of the Issuer, and the rights of the holders of the Bonds, and, by the acceptance of this Bond, the holder hereof assents to all the provisions of the Resolution.

This Bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this bond. Upon such transfer a new bond or bonds of the same series, interest rate, maturity or maturities and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefore.

The Issuer and Paying Agent may deem and treat the Registered Owner thereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all

other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds may, at the option of the Registered Owner thereof, upon the surrender thereof at the principal office of the Registrar with a written instrument of transfer, in form and with guarantee of signature satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney, be exchanged for an equal aggregate principal amount of fully registered bonds of the same series, maturity and interest rate of any other authorized denomination.

This Bond is subject to prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The Bonds are limited special obligations of the Issuer and are payable solely out of the money payable under the Resolution and the Issuer and shall not be obligated to pay the Bonds or the interest thereon, except from the special funds derived from the Resolution. Under the Resolution, the Issuer must pay the Paying Agent such payments as will be fully sufficient to pay the principal of and interest on the Bonds, as the same mature.

The Registered Owner of the Bond shall have no right to enforce the provisions of the Resolution or to institute any action to enforce the covenants therein, or to take any action with respect to any event of default under the Resolution, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Resolution. In certain events, on the conditions, in the manner and with the effect set forth in the Resolution, the principal of all the bonds issued under the Resolution and then outstanding, may become or may be declared due and payable before the stated maturity thereof together with interest accrued thereon. Modifications or alterations of the Resolution, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Resolution.

Under the Act, this Bond and the interest hereon are exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Issuer does not reasonably expect to issue more than $30,000,000 of tax-exempt obligations during the calendar year 2010 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions necessary to be done or performed by the Issuer or to have happened precedent to and in the issuance of this Bond in order to make this Bond a legal, valid and binding special obligation of the Issuer in accordance with its terms, and precedent to and in the execution and delivery of the Resolution, have happened and have been performed in regular and due form as required by law; that this Bond does not exceed or violate any constitutional or statutory limitation and that a sufficient amount of money has been pledged to and will be set aside into the Principal and Interest Account by the Issuer for the prompt payment of the principal of and interest on this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication and Registration appearing hereon shall have been duly and manually executed by the Registrar.

IN WITNESS WHEREOF, the LUBECK PUBLIC SERVICE DISTRICT has caused this Bond to be executed in its name by the manual signature of its Chairperson and its seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its Secretary, all as of the date set forth above.

LUBECK PUBLIC SERVICE DISTRICT

(SEAL)

By: _____
Chairperson

By: _____
Secretary

{C1740652.1}

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within named Bond Resolution and has been duly registered in the name set forth above as of the date set forth below.

Dated: _____.

_____, as Registrar

By: _____
Authorized Officer

EXHIBIT A

DEBT SERVICE SCHEDULE

(Form of Assignment)

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

_____

(Please print or type name, address and Social Security Number of Transferee) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

2.3

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 WATER REVENUE BONDS, SERIES 2010 A (BB and T); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO BRANCH BANKING AND TRUST COMPANY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the Public Service Board (the "Governing Body") of Lubeck Public Service District (the "Issuer") has duly and officially adopted a Bond Resolution on May 13, 2010 (the "Resolution"), entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LUBECK PUBLIC SERVICE DISTRICT AN THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A (BB and T) FOR SUCH PURPOSES AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; 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; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

WHEREAS, the capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein;

WHEREAS, the Resolution provides for the issuance of the Water Revenue Bonds, Series 2010 A (BB and T), of the Issuer, in an aggregate principal amount not to exceed $600,000 (the "Bonds" or the "Series 2010 A Bonds"), all in accordance with

Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"); and in the Resolution it is provided that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds should be established by a supplemental resolution, and that other matters relating to the Bonds be therein provided for;

WHEREAS, the Commitment Letter from Branch Banking and Trust Company (the "Purchaser") has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Purchaser pursuant to the Commitment Letter; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the Commitment Letter be approved, that the exact principal amount, date, maturity date, interest rate, payment schedule, sale price and other terms of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF 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 Water Revenue Bonds, Series 2010 A (BB and T), of the Issuer, originally represented by a single bond, numbered AR-1, in the original principal amount of $590,000. The Series 2010 A Bonds shall be dated the date of delivery, shall finally mature June 1, 2025, and shall bear interest at the rate of 4.74% per annum. The principal and interest of the Series 2010 A Bonds shall be payable monthly on the 1st of each month, commencing July 1, 2010, in the amounts set forth in the amortization schedule attached to the Commitment Letter and incorporated in and made a part of the Series 2010 A Bonds. The Series 2010 A Bonds shall be subject to redemption in whole on a scheduled payment date upon payment of a 1% redemption premium and otherwise in compliance with the Commitment Letter.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the form provided in the Resolution.

Section 3. The Issuer hereby authorizes, approves and accepts the Commitment Letter, including all schedules and exhibits attached thereto, a copy of which is incorporated herein by reference, and the execution and delivery of the

Commitment Letter 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 Commitment Letter and in the applications to the Purchaser. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon, provided that the proceeds of the Series 2010 A Bonds shall be deposited in the Construction Trust Fund and advanced from time to time as requisitioned by the Issuer in accordance with the Project Fund Agreement between the Issuer and the Purchaser.

Section 4. The Issuer hereby appoints and designates Branch Banking and Trust Company, Charleston, West Virginia, to serve as Registrar (the "Registrar") for the Bonds under the Resolution and approves and accepts the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and the Registrar, and the execution and delivery of the Registrar's Agreement by the Chairperson, and the performance of the obligations contained therein, on behalf of the Issuer, are hereby authorized, directed and approved.

Section 5. The Issuer hereby appoints and designates Branch Banking and Trust Company, Charleston, West Virginia, to serve as the Depository Bank and Paying Agent under the Resolution.

Section 6. The Issuer hereby approves the Project Fund Agreement between the Issuer and Branch Banking and Trust Company and authorizes the execution and delivery of such agreement by the Chairperson.

Section 7. Series 2010 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2010 A Bonds Sinking Fund as capitalized interest.

Section 8. Series 2010 A Bonds proceeds in the amount of $-0- shall be deposited in the Series 2010 A Bonds Reserve Account.

Section 9. The remaining proceeds of the Series 2010 A Bonds shall be deposited in the Series 2010 A Bonds Construction Trust Fund for payment of costs of the Project, including costs of issuance of the Series 2010 A Bonds, and administered and disbursed in accordance with the Project Fund Agreement.

Section 10. The Chairperson and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered to the Purchaser on or about May 14, 2010.

Section 11. The acquisition and construction of the Project and the financing thereof in part with proceeds of the Bonds are in the public interest, serve a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 12. 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 Reserve Account shall be invested by the Commission in the West Virginia Consolidated Fund.

Section 13. The Issuer is hereby authorized to reimburse itself for engineering costs not in excess of 20% of the purchase price of the Bonds.

Section 14. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project and the Chairperson is hereby authorized and directed to execute and deliver all such contracts.

Section 15. The Issuer hereby approves the costs of issuance and authorizes the payment of the same.

Section 16. The Issuer hereby approves the first requisition, which is incorporated herein by reference, for the Bonds and the execution thereof and authorizes the payment of all expenses contained on the first requisition.

Section 17. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 13th day of May, 2010.

Chairperson

Member

Member

CERTIFICATION

Certified as a true copy of a Supplemental Resolution duly adopted by the Public Service Board of Lubeck Public Service District on the 13th day of May, 2010.

Dated this 14th day of May, 2010.

[SEAL]

Secretary

LUBECK PUBLIC SERVICE DISTRICT 2.4
WATER REVENUE BONDS, SERIES 2010 A (BB and T)

MINUTES ON ADOPTION OF BOND RESOLUTION
AND SUPPLEMENTAL RESOLUTION

On this 13th day of May, 2010, the undersigned duly appointed Secretary of the Public Service Board of Lubeck Public Service District hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of said Public Service Board:

*** *** ***

The Public Service Board of Lubeck Public Service District met in regular session, pursuant to notice duly posted, on the 13th day of May, 2010, in Washington, West Virginia, at the hour of 7:00 p.m.

PRESENT:	Jerry R. Martin	-	Chairperson and Member
	John H. Sines	-	Secretary and Member
	Roger D. Martin	-	Treasurer and Member

ABSENT: None

Jerry R. Martin, Chairperson, presided, and John H. Sines, acted as Secretary. The Chairperson announced that a quorum of members was present and that the meeting was open for any business properly before it.

*** *** ***

Thereupon, the Chairperson presented a proposed Bond Resolution in writing entitled:

RESOLUTION AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS AND EXTENSIONS TO THE EXISTING PUBLIC WATER FACILITIES OF LUBECK PUBLIC SERVICE DISTRICT AN THE FINANCING OF THE COST THEREOF, NOT OTHERWISE PROVIDED, THROUGH THE ISSUANCE OF NOT MORE THAN $600,000 IN AGGREGATE PRINCIPAL AMOUNT OF WATER REVENUE BONDS, SERIES 2010 A

(BB and T) FOR SUCH PURPOSES AND PAYMENT OF THE COST OF ISSUANCE OF THE BONDS; 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; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATED THERETO.

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Bond Resolution be adopted and be in full force and effect on and from the date hereof.

Next, the Chairperson presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO THE PRINCIPAL AMOUNT, DATE, MATURITY DATE, INTEREST RATE, PAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE LUBECK PUBLIC SERVICE DISTRICT WATER REVENUE BONDS, SERIES 2010 A (BB and T); AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF SUCH BONDS TO BRANCH BANKING AND TRUST COMPANY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Upon motion duly made and seconded, it was unanimously ordered that said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

*** *** ***

There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

Chairperson

Secretary

CERTIFICATION

I hereby certify that the foregoing action of Lubeck Public Service District remains in full force and effect and has not been amended, rescinded, superseded, repealed or changed.

WITNESS my signature as of the date first written above.

Secretary

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, May 13, 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 Resolution authorizing its Water Revenue Bonds, Series 2010 A (BB and T), in the aggregate principal amount of $600,000 (the "Bonds"), to permanently finance the costs of certain improvements and extensions to the public water facilities of the District (the "Project").

2. To consider and adopt a proposed Supplemental Resolution approving the terms and other provisions of the Bonds.

This meeting is open to the press and the public and any person interested may attend such meeting.

/s/ John H. Sines
Secretary

Apr 30

.....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** ...30TH.....**day of** ...APRIL..... **2010.., and subsequent publication on the** .... **day (s) of** ..... **20.....**

Printer's Fee $... ..27.30...

Notarized Signature $.....2.00...

Additional Copy Fee $.....

Total Due: $.....29.30...

By:.....Mary J Buck.....

Subscribed and sworn to before me this

5th **day of** May **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

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

GENERAL CERTIFICATE ON:

1. TERMS
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS AND BIDDING
4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
5. SIGNATURES AND DELIVERY
6. PUBLIC SERVICE COMMISSION ORDER
7. RATES
8. INCUMBENCY AND OFFICIAL NAME
9. LAND AND RIGHTS-OF-WAY
10. MEETINGS
11. INSURANCE
12. REPRESENTATIONS
13. SPECIMEN BOND
14. BOND PROCEEDS
15. CONFLICTS OF INTEREST
16. VERIFICATION OF SCHEDULE
17. WETLANDS COVENANT
18. PROCUREMENT OF ENGINEERING SERVICES
19. COUNTERPARTS

On this 14th day of May, 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 Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T), dated the date hereof (the "Bonds" or the "Series 2010 A Bonds"), as follows:

1. TERMS: All capitalized words and terms used in this General Certificate and not otherwise defined herein shall have the same meaning set forth in the Bond Resolution duly adopted by the Issuer on May 13, 2010, the Supplemental Resolution duly adopted by the Issuer on May 13, 2010 (collectively, the "Resolution").

2. NO LITIGATION: No controversy or litigation of any nature is now pending or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting in any manner the authorization, issuance, sale and delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the

collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds; nor affecting the validity of the Bonds or any provisions made or authorized for the payment thereof; nor questioning the existence of the Issuer or the title of the members or officers of the Issuer or the Board thereof to their respective offices; nor questioning any proceedings of the Issuer taken with respect to the authorization, issuance, sale or delivery of the Bonds, the acquisition and construction of the Project, the operation of the System, the collection or use of the revenues of the System, or the pledge and security of the Net Revenues for the Bonds.

3. GOVERNMENTAL APPROVALS AND BIDDING: All applicable approvals, permits, exemptions, consents, authorizations, registrations, licenses, orders and certificates required by law for the creation and existence of the Issuer, the acquisition and construction of the Project, the operation of the System, the imposition of rates and charges and the issuance of the Bonds have been duly and timely obtained and remain in full force and effect. Competitive bids for the acquisition and construction of the Project have been solicited by the Issuer in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia, 1931, as amended, which bids remain in full force and effect.

4. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer since the approval of the Commitment Letter. The Issuer has met all conditions set forth in the Commitment Letter and will provide the financial, institutional, legal and managerial capabilities necessary to complete and operate the Project.

The Series 2010 A Bonds shall be issued on a parity with the First Lien Bonds with respect to liens, pledge and source of and security for payment and in all other respects and senior and prior to the Series 1990 B Bonds. The Issuer has met the parity and coverage requirements of the Prior Bonds and the Prior Resolutions and has substantially complied with all other parity requirements, except to the extent that noncompliance with any such other parity requirements is not of a material nature. The Issuer has obtained (i) a certificate of an Independent Certified Public Accountant stating that the parity and coverage tests of the First Lien Bonds have been met; (ii) the written consent of the Registered Owners of the First Lien Bonds to the issuance of the Series 2010 A Bonds on a parity with the First Lien Bonds; (iii) the written consent of the Registered Owners of the Series 1990 B Bonds to the issuance of the Series 2010 A Bonds senior and prior to the Series 1990 B Bonds; and (iv) the written consent of the issuance of the Registered Owners of the Issuer's 2009 A Bond Anticipation Notes to the issuance of the Series 2010 A Bonds without paying the Series 2009 A Bond Anticipation Notes.

Other than the Prior Bonds, there are no outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

5. SIGNATURES AND DELIVERY: The undersigned Chairperson and Secretary are the duly elected or appointed, qualified and acting officers of the Issuer as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Bonds for the Issuer. The seal impressed upon the Bonds and this Certificate is the duly authorized, proper and only seal of the Issuer. On the date hereof, the undersigned Chairperson did officially sign all of the Bonds, consisting upon original issuance of a single Bond, dated the date hereof, by his or her manual signature; the undersigned Secretary did officially cause the seal of the Issuer to be affixed upon the Bonds and to be attested by his or her manual signature; the Registrar did officially authenticate, register and deliver the Bonds to a representative of the Purchaser as the original purchaser of the Bonds under the Commitment Letter.

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-CN, approving the Project and approving the financing for the Project. The time for appeal of the November 13, 2009 Order has expired prior to the date hereof without any appeal having been filed. The Order remains in full force and effect.

The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed, the cost of the Project, the anticipated user rates and charges and any notice required to be filed in conjunction with obtaining approval from the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended.

7. RATES: The rates for the System, as approved by the PSC 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 existing under the laws of, and a political subdivision of, the State of West Virginia in Wood County of said State. The Issuer operates the System 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 A. 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.

10. MEETINGS: All actions, resolutions, orders and agreements taken, adopted and entered into by or on behalf of the Issuer in any way connected with the issuance of the Bonds and the acquisition, construction, operation and financing of the Project or the System were authorized or adopted at meetings of the Board duly and regularly or specifically called and held pursuant to all applicable statutes and the rules of procedure of the Board, and a quorum of duly appointed, qualified and acting members of the Board was present and acting at all times during all such meetings. All notices required to be posted and/or published were so posted and/or published.

11. INSURANCE: The Issuer will maintain or, as appropriate, will require all contractors to maintain worker's compensation, public liability insurance, property damage insurance, standard hazard insurance, builder's risk insurance, flood

insurance and business interruption insurance, where applicable, in accordance with the Resolution. All insurance for the System required by the Resolution are in full force and effect.

12. REPRESENTATIONS: As of the date hereof, (i) the representations of the Issuer contained in the Resolution are true and correct in all material respects as if made on the date hereof; (ii) the Resolution 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 Commitment Letter, 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 Resolution.

13. SPECIMEN BOND: Attached hereto as Exhibit A is a specimen of the Bond which, except as to execution and authentication, is identical in all respects with the Bond this day delivered to the Purchaser and being substantially in the form prescribed in the Resolution.

14. BOND PROCEEDS: On the date hereof, the Issuer received the sum of $590,000 from the Purchaser, being the entire principal amount of the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be advanced to the Issuer from time to time as acquisition and construction of the Project progresses.

15. CONFLICTS OF INTEREST: No member, officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or the sale of any land, materials, supplies or services to the Issuer, or to any contractor supplying the Issuer, relating to the Bonds, the Resolution and/or the Project, including, without limitation, with respect to the Depository Bank. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

16. VERIFICATION OF SCHEDULE: The final amended Schedule B attached to the Certificate of Consulting Engineer, with the signature of the Chairperson and the Consulting Engineer, accurately represents the estimated costs of the Project, the sources of funds available to pay the costs of the Project and the costs of financing of the Bonds.

17. WETLANDS COVENANT: The Issuer hereby certifies that it will not use any proceeds of the Bonds for a purpose that will contribute to excessive erosion of highly erodible lands or to the conversion of wetlands to produce an agricultural commodity.

18. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied with all the requirements of Chapter 5G, Article 1 of the Code of West Virginia, 1931, as amended, in the procurement of the engineering services of the Consulting Engineer.

19. COUNTERPARTS: This Certificate may be executed in counterparts and all counterparts shall be deemed to be the Certificate.

WITNESS our signatures and the official corporate seal of Lubeck Public Service District as of the date first written above.

[SEAL]

Signature	Official Title
	Chairperson
	Secretary
	Attorney

EXHIBIT A

See Specimen Bond (Tab No. 15).

BB&T

Branch Banking & Trust Co.

Governmental Finance
501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1653
Fax (304) 340-4702

March 24, 2010

James Cox
Manager
Lucock Public Service District
PO Box 700
Washington, WV 26181

Dear Mr. Cox:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by the Lubeck Public Service District of West Virginia ("PSD").

(1) **Project:** Water Revenue Bond for Tank Upgrades

(2) **Amount To Be Financed:** up to $600,000

(3) **Interest Rates, Financing Terms and Corresponding Payments:**

Term	Rate
15 years	4.74%

Payments shall be monthly in arrears, as requested. See the attached amortization schedule(s) for information on payments.

The financing proceeds shall be deposited on behalf of the PSD in a project fund account with Branch Banking & Trust. Earnings on the project fund shall accrue to the benefit of the PSD for use on Project costs or interest payments.

The interest rates stated above are valid for a closing not later than 30 days after today. Closing of the financing is contingent upon completing documentation acceptable to BB&T. We shall review your most recent financial statements before funding this transaction.

Remuneration for our legal expenses, preparation of documentation and for providing the project fund services for this financing transaction shall be $2,950.00. All applicable taxes, permits, costs of lawyers for the PSD and any other costs shall be the PSD's responsibility and separately payable by the PSD. The financing documents shall allow prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The stated interest rates assume that the PSD expects to borrow less than $30,000,000 in calendar year 2010 and that the PSD shall comply with IRS Code Sections 141, 148 and 149. BB&T reserves the right to terminate its interest in this bid or to negotiate a mutually acceptable rate if the financing is not qualified tax-exempt financing for the purpose of IRS Code Section 265(b)(3).

(4) Financing Documents:

It shall be the responsibility of the City to retain and compensate counsel to appropriately structure the water revenue bond according to West Virginia State Statutes. BB&T shall also require the City's Bond Counsel to provide an unqualified legal opinion. BB&T reserves the right to review the bond and it must be mutually accepted by BB&T and the City.

(5) Security:

The water revenue bond shall be secured by a pledge of the net revenues of the water system on a parity basis with all other outstanding water revenue bonds.

* * * * * *

BB&T appreciates the opportunity to make this financing proposal and requests to be notified within five days of this proposal should BB&T be the successful proposer.

BB&T shall have the right to cancel this offer by notifying the PSD of its election to do so (whether or not this offer has previously been accepted by the PSD) if at any time prior to the closing there is a material adverse change in the PSD's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the PSD or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T. We reserve the right to negotiate and/or terminate our interest in this transaction should we be the successful proposer.

Please call me at (304) 353-1635 with your questions and comments. We look forward to hearing from you.

Sincerely,

BRANCH BANKING AND TRUST COMPANY

Russell R. Akers, II
Vice President

Enclosure

Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

Compound Period ..... : Monthly

Nominal Annual Rate .... : 4.740 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	05/14/2010	590,000.00	1		
2	Payment	07/01/2010	4,597.03	180	Monthly	06/01/2025

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	05/14/2010				590,000.00
2010 Totals		0.00	0.00	0.00	
1	07/01/2010	4,597.03	3,734.32	862.71	589,137.29
2	08/01/2010	4,597.03	2,327.09	2,269.94	586,867.35
3	09/01/2010	4,597.03	2,318.13	2,278.90	584,588.45
4	10/01/2010	4,597.03	2,309.12	2,287.91	582,300.54
5	11/01/2010	4,597.03	2,300.09	2,296.94	580,003.60
6	12/01/2010	4,597.03	2,291.01	2,306.02	577,697.58
7	01/01/2011	4,597.03	2,281.91	2,315.12	575,382.46
8	02/01/2011	4,597.03	2,272.76	2,324.27	573,058.19
9	03/01/2011	4,597.03	2,263.58	2,333.45	570,724.74
10	04/01/2011	4,597.03	2,254.36	2,342.67	568,382.07
11	05/01/2011	4,597.03	2,245.11	2,351.92	566,030.15
12	06/01/2011	4,597.03	2,235.82	2,361.21	563,668.94
2011 Totals		55,164.36	28,833.30	26,331.06	
13	07/01/2011	4,597.03	2,226.49	2,370.54	561,298.40
14	08/01/2011	4,597.03	2,217.13	2,379.90	558,918.50
15	09/01/2011	4,597.03	2,207.73	2,389.30	556,529.20
16	10/01/2011	4,597.03	2,198.29	2,398.74	554,130.46
17	11/01/2011	4,597.03	2,188.82	2,408.21	551,722.25
18	12/01/2011	4,597.03	2,179.30	2,417.73	549,304.52
19	01/01/2012	4,597.03	2,169.75	2,427.28	546,877.24
20	02/01/2012	4,597.03	2,160.17	2,436.86	544,440.38
21	03/01/2012	4,597.03	2,150.54	2,446.49	541,993.89
22	04/01/2012	4,597.03	2,140.88	2,456.15	539,537.74
23	05/01/2012	4,597.03	2,131.17	2,465.86	537,071.88
24	06/01/2012	4,597.03	2,121.43	2,475.60	534,596.28
2012 Totals		55,164.36	26,091.70	29,072.66	
25	07/01/2012	4,597.03	2,111.66	2,485.37	532,110.91
26	08/01/2012	4,597.03	2,101.84	2,495.19	529,615.72
27	09/01/2012	4,597.03	2,091.98	2,505.05	527,110.67

Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

	Date	Payment	Interest	Principal	Balance
28	10/01/2012	4,597.03	2,082.09	2,514.94	524,595.73
29	11/01/2012	4,597.03	2,072.15	2,524.88	522,070.85
30	12/01/2012	4,597.03	2,062.18	2,534.85	519,536.00
31	01/01/2013	4,597.03	2,052.17	2,544.86	516,991.14
32	02/01/2013	4,597.03	2,042.12	2,554.91	514,436.23
33	03/01/2013	4,597.03	2,032.02	2,565.01	511,871.22
34	04/01/2013	4,597.03	2,021.89	2,575.14	509,296.08
35	05/01/2013	4,597.03	2,011.72	2,585.31	506,710.77
36	06/01/2013	4,597.03	2,001.51	2,595.52	504,115.25
2013 Totals		55,164.36	24,683.33	30,481.03	
37	07/01/2013	4,597.03	1,991.26	2,605.77	501,509.48
38	08/01/2013	4,597.03	1,980.96	2,616.07	498,893.41
39	09/01/2013	4,597.03	1,970.63	2,626.40	496,267.01
40	10/01/2013	4,597.03	1,960.25	2,636.78	493,630.23
41	11/01/2013	4,597.03	1,949.84	2,647.19	490,983.04
42	12/01/2013	4,597.03	1,939.38	2,657.65	488,325.39
43	01/01/2014	4,597.03	1,928.89	2,668.14	485,657.25
44	02/01/2014	4,597.03	1,918.35	2,678.68	482,978.57
45	03/01/2014	4,597.03	1,907.77	2,689.26	480,289.31
46	04/01/2014	4,597.03	1,897.14	2,699.89	477,589.42
47	05/01/2014	4,597.03	1,886.48	2,710.55	474,878.87
48	06/01/2014	4,597.03	1,875.77	2,721.26	472,157.61
2014 Totals		55,164.36	23,206.72	31,957.64	
49	07/01/2014	4,597.03	1,865.02	2,732.01	469,425.60
50	08/01/2014	4,597.03	1,854.23	2,742.80	466,682.80
51	09/01/2014	4,597.03	1,843.40	2,753.63	463,929.17
52	10/01/2014	4,597.03	1,832.52	2,764.51	461,164.66
53	11/01/2014	4,597.03	1,821.60	2,775.43	458,389.23
54	12/01/2014	4,597.03	1,810.64	2,786.39	455,602.84
55	01/01/2015	4,597.03	1,799.63	2,797.40	452,805.44
56	02/01/2015	4,597.03	1,788.58	2,808.45	449,996.99
57	03/01/2015	4,597.03	1,777.49	2,819.54	447,177.45
58	04/01/2015	4,597.03	1,766.35	2,830.68	444,346.77
59	05/01/2015	4,597.03	1,755.17	2,841.86	441,504.91
60	06/01/2015	4,597.03	1,743.94	2,853.09	438,651.82
2015 Totals		55,164.36	21,658.57	33,505.79	
61	07/01/2015	4,597.03	1,732.67	2,864.36	435,787.46
62	08/01/2015	4,597.03	1,721.36	2,875.67	432,911.79
63	09/01/2015	4,597.03	1,710.00	2,887.03	430,024.76
64	10/01/2015	4,597.03	1,698.60	2,898.43	427,126.33
65	11/01/2015	4,597.03	1,687.15	2,909.88	424,216.45
66	12/01/2015	4,597.03	1,675.65	2,921.38	421,295.07
67	01/01/2016	4,597.03	1,664.12	2,932.91	418,362.16
68	02/01/2016	4,597.03	1,652.53	2,944.50	415,417.66

Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

	Date	Payment	Interest	Principal	Balance
69	03/01/2016	4,597.03	1,640.90	2,956.13	412,461.53
70	04/01/2016	4,597.03	1,629.22	2,967.81	409,493.72
71	05/01/2016	4,597.03	1,617.50	2,979.53	406,514.19
72	06/01/2016	4,597.03	1,605.73	2,991.30	403,522.89
2016 Totals		55,164.36	20,035.43	35,128.93	
73	07/01/2016	4,597.03	1,593.92	3,003.11	400,519.78
74	08/01/2016	4,597.03	1,582.05	3,014.98	397,504.80
75	09/01/2016	4,597.03	1,570.14	3,026.89	394,477.91
76	10/01/2016	4,597.03	1,558.19	3,038.84	391,439.07
77	11/01/2016	4,597.03	1,546.18	3,050.85	388,388.22
78	12/01/2016	4,597.03	1,534.13	3,062.90	385,325.32
79	01/01/2017	4,597.03	1,522.04	3,074.99	382,250.33
80	02/01/2017	4,597.03	1,509.89	3,087.14	379,163.19
81	03/01/2017	4,597.03	1,497.69	3,099.34	376,063.85
82	04/01/2017	4,597.03	1,485.45	3,111.58	372,952.27
83	05/01/2017	4,597.03	1,473.16	3,123.87	369,828.40
84	06/01/2017	4,597.03	1,460.82	3,136.21	366,692.19
2017 Totals		55,164.36	18,333.66	36,830.70	
85	07/01/2017	4,597.03	1,448.43	3,148.60	363,543.59
86	08/01/2017	4,597.03	1,436.00	3,161.03	360,382.56
87	09/01/2017	4,597.03	1,423.51	3,173.52	357,209.04
88	10/01/2017	4,597.03	1,410.98	3,186.05	354,022.99
89	11/01/2017	4,597.03	1,398.39	3,198.64	350,824.35
90	12/01/2017	4,597.03	1,385.76	3,211.27	347,613.08
91	01/01/2018	4,597.03	1,373.07	3,223.96	344,389.12
92	02/01/2018	4,597.03	1,360.34	3,236.69	341,152.43
93	03/01/2018	4,597.03	1,347.55	3,249.48	337,902.95
94	04/01/2018	4,597.03	1,334.72	3,262.31	334,640.64
95	05/01/2018	4,597.03	1,321.83	3,275.20	331,365.44
96	06/01/2018	4,597.03	1,308.89	3,288.14	328,077.30
2018 Totals		55,164.36	16,549.47	38,614.89	
97	07/01/2018	4,597.03	1,295.91	3,301.12	324,776.18
98	08/01/2018	4,597.03	1,282.87	3,314.16	321,462.02
99	09/01/2018	4,597.03	1,269.77	3,327.26	318,134.76
100	10/01/2018	4,597.03	1,256.63	3,340.40	314,794.36
101	11/01/2018	4,597.03	1,243.44	3,353.59	311,440.77
102	12/01/2018	4,597.03	1,230.19	3,366.84	308,073.93
103	01/01/2019	4,597.03	1,216.89	3,380.14	304,693.79
104	02/01/2019	4,597.03	1,203.54	3,393.49	301,300.30
105	03/01/2019	4,597.03	1,190.14	3,406.89	297,893.41
106	04/01/2019	4,597.03	1,176.68	3,420.35	294,473.06
107	05/01/2019	4,597.03	1,163.17	3,433.86	291,039.20
108	06/01/2019	4,597.03	1,149.60	3,447.43	287,591.77
2019 Totals		55,164.36	14,678.83	40,485.53	

Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

	Date	Payment	Interest	Principal	Balance
109	07/01/2019	4,597.03	1,135.99	3,461.04	284,130.73
110	08/01/2019	4,597.03	1,122.32	3,474.71	280,656.02
111	09/01/2019	4,597.03	1,108.59	3,488.44	277,167.58
112	10/01/2019	4,597.03	1,094.81	3,502.22	273,665.36
113	11/01/2019	4,597.03	1,080.98	3,516.05	270,149.31
114	12/01/2019	4,597.03	1,067.09	3,529.94	266,619.37
115	01/01/2020	4,597.03	1,053.15	3,543.88	263,075.49
116	02/01/2020	4,597.03	1,039.15	3,557.88	259,517.61
117	03/01/2020	4,597.03	1,025.09	3,571.94	255,945.67
118	04/01/2020	4,597.03	1,010.99	3,586.04	252,359.63
119	05/01/2020	4,597.03	996.82	3,600.21	248,759.42
120	06/01/2020	4,597.03	982.60	3,614.43	245,144.99
2020 Totals		55,164.36	12,717.58	42,446.78	
121	07/01/2020	4,597.03	968.32	3,628.71	241,516.28
122	08/01/2020	4,597.03	953.99	3,643.04	237,873.24
123	09/01/2020	4,597.03	939.60	3,657.43	234,215.81
124	10/01/2020	4,597.03	925.15	3,671.88	230,543.93
125	11/01/2020	4,597.03	910.65	3,686.38	226,857.55
126	12/01/2020	4,597.03	896.09	3,700.94	223,156.61
127	01/01/2021	4,597.03	881.47	3,715.56	219,441.05
128	02/01/2021	4,597.03	866.79	3,730.24	215,710.81
129	03/01/2021	4,597.03	852.06	3,744.97	211,965.84
130	04/01/2021	4,597.03	837.27	3,759.76	208,206.08
131	05/01/2021	4,597.03	822.41	3,774.62	204,431.46
132	06/01/2021	4,597.03	807.50	3,789.53	200,641.93
2021 Totals		55,164.36	10,661.30	44,503.06	
133	07/01/2021	4,597.03	792.54	3,804.49	196,837.44
134	08/01/2021	4,597.03	777.51	3,819.52	193,017.92
135	09/01/2021	4,597.03	762.42	3,834.61	189,183.31
136	10/01/2021	4,597.03	747.27	3,849.76	185,333.55
137	11/01/2021	4,597.03	732.07	3,864.96	181,468.59
138	12/01/2021	4,597.03	716.80	3,880.23	177,588.36
139	01/01/2022	4,597.03	701.47	3,895.56	173,692.80
140	02/01/2022	4,597.03	686.09	3,910.94	169,781.86
141	03/01/2022	4,597.03	670.64	3,926.39	165,855.47
142	04/01/2022	4,597.03	655.13	3,941.90	161,913.57
143	05/01/2022	4,597.03	639.56	3,957.47	157,956.10
144	06/01/2022	4,597.03	623.93	3,973.10	153,983.00
2022 Totals		55,164.36	8,505.43	46,658.93	
145	07/01/2022	4,597.03	608.23	3,988.80	149,994.20
146	08/01/2022	4,597.03	592.48	4,004.55	145,989.65
147	09/01/2022	4,597.03	576.66	4,020.37	141,969.28
148	10/01/2022	4,597.03	560.78	4,036.25	137,933.03
149	11/01/2022	4,597.03	544.84	4,052.19	133,880.84

Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

	Date	Payment	Interest	Principal	Balance
150	12/01/2022	4,597.03	528.83	4,068.20	129,812.64
151	01/01/2023	4,597.03	512.76	4,084.27	125,728.37
152	02/01/2023	4,597.03	496.63	4,100.40	121,627.97
153	03/01/2023	4,597.03	480.43	4,116.60	117,511.37
154	04/01/2023	4,597.03	464.17	4,132.86	113,378.51
155	05/01/2023	4,597.03	447.85	4,149.18	109,229.33
156	06/01/2023	4,597.03	431.46	4,165.57	105,063.76
2023 Totals		55,164.36	6,245.12	48,919.24	
157	07/01/2023	4,597.03	415.00	4,182.03	100,881.73
158	08/01/2023	4,597.03	398.48	4,198.55	96,683.18
159	09/01/2023	4,597.03	381.90	4,215.13	92,468.05
160	10/01/2023	4,597.03	365.25	4,231.78	88,236.27
161	11/01/2023	4,597.03	348.53	4,248.50	83,987.77
162	12/01/2023	4,597.03	331.75	4,265.28	79,722.49
163	01/01/2024	4,597.03	314.90	4,282.13	75,440.36
164	02/01/2024	4,597.03	297.99	4,299.04	71,141.32
165	03/01/2024	4,597.03	281.01	4,316.02	66,825.30
166	04/01/2024	4,597.03	263.96	4,333.07	62,492.23
167	05/01/2024	4,597.03	246.84	4,350.19	58,142.04
168	06/01/2024	4,597.03	229.66	4,367.37	53,774.67
2024 Totals		55,164.36	3,875.27	51,289.09	
169	07/01/2024	4,597.03	212.41	4,384.62	49,390.05
170	08/01/2024	4,597.03	195.09	4,401.94	44,988.11
171	09/01/2024	4,597.03	177.70	4,419.33	40,568.78
172	10/01/2024	4,597.03	160.25	4,436.78	36,132.00
173	11/01/2024	4,597.03	142.72	4,454.31	31,677.69
174	12/01/2024	4,597.03	125.13	4,471.90	27,205.79
175	01/01/2025	4,597.03	107.46	4,489.57	22,716.22
176	02/01/2025	4,597.03	89.73	4,507.30	18,208.92
177	03/01/2025	4,597.03	71.93	4,525.10	13,683.82
178	04/01/2025	4,597.03	54.05	4,542.98	9,140.84
179	05/01/2025	4,597.03	36.11	4,560.92	4,579.92
180	06/01/2025	4,597.03	17.11	4,579.92	0.00
2025 Totals		55,164.36	1,389.69	53,774.67	
Grand Totals		827,465.40	237,465.40	590,000.00	

BB&T

Branch Banking & Trust Co.

Governmental Finance
501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1653
Fax (304) 340-4702

May 12, 2010

James Cox
Manager
Luceck Public Service District
PO Box 700
Washington, WV 26181

Dear Mr. Cox:

Branch Banking and Trust Company ("BB&T") will hold the interest rate of 4.74% fixed for fifteen years proposed on March 24, 2010, through the funding date of May 14, 2010. All other terms and conditions of the proposal dated March 24, 2010, for the water revenue bond shall remain the same.

Should you have any questions or concerns, please feel free to call me at (304)353-1635.

Sincerely,

BRANCH BANKING AND TRUST COMPANY

Russell R. Akers, II
Vice President

Enclosure

BB&T

Branch Banking & Trust Co.

Governmental Finance
501 Tennessee Avenue
Charleston, WV 25302
(304) 353-1653
Fax (304) 340-4702 3.3

BANK INVESTMENT LETTER

May 14, 2010

Lubeck Public Service District
Washington, West Virginia

Jackson Kelly PLLC
Charleston, West Virginia

Re: Lubeck Public Service District
Water Revenue Bonds, Series 2010 A (BB and T)

Ladies and Gentlemen:

The undersigned Russell R. Akers, Vice President of Branch Banking and Trust Company, Charleston, West Virginia (the "Purchaser"), on behalf of the Purchaser in connection with its purchase of the $590,000 aggregate principal amount of the Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T) (the "Bonds"), issued by the Lubeck Public Service District (the "Issuer") on the date hereof, pursuant to a Bond Resolution adopted by the Issuer on May 13, 2010, as effective on and supplemented by a Supplemental Resolution adopted by the Issuer on May 13, 2010 (collectively, the "Bond Resolution"), hereby makes the following representations and warranties to you that:

1. We have sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment represented by our purchase of the Bonds, and our net worth and available assets are such that we are able to bear the economic risk of our purchase of the Bonds.

2. We understand that the entire principal of and interest on the Bonds are payable by the Issuer solely from and secured by a first lien on the Net Revenues of the System on a parity with the First Lien Bonds and senior and prior to the Series 1990 B Bonds (as defined in the Bond Resolution); that the Bonds are special and limited obligations of the Issuer and are not general obligations or secured by any obligation or pledge of any monies received or to be received by the Issuer other than described above; and that the Bonds do not now and shall never constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation.

3. We understand that no official statement, prospectus, offering circular or other offering statement containing material information with respect to the Issuer or the Bonds is being issued, that the Bonds are unrated,

and that in due diligence, we have made our own inquiry and analysis with respect to the Issuer, the Bonds and the security therefor, and other material factors affecting the security for and payment of the Bonds, and are relying solely on such inquiry and analysis in our purchase of the Bonds.

4. We acknowledge that during the course of the transaction and prior to the sale of the Bonds, we have requested or have had access to information, including financial statements and other financial information, to which a reasonable investor would attach significance in making investment decisions, and we have had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Issuer, the Bonds and the security therefor, so that as a reasonable investor, we have been able to make our decision to purchase the Bonds. No such information requested by us has been denied to us.

5. Because of our experience in financial and business matters, we feel that we are qualified to make the inquiry and analysis described in paragraph 3 and to understand fully the documents and information described in paragraph 4.

6. We understand that the Bonds (a) are not being registered under the Securities Act of 1933, as amended, and are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (b) will not be listed on any stock or other securities exchange, (c) will carry no rating from any rating service, and (d) may be resold only to purchasers who meet the criteria set forth herein and who, as a condition to such purchase, deliver an executed letter substantially in the form hereof to Jackson Kelly PLLC, Charleston, West Virginia.

7. We are purchasing the Bonds for investment in our own account. We do not intend to divide the Bonds purchased by us nor to resell or otherwise dispose of all or any part of the Bonds purchased by us, except as permitted by law on a basis of full disclosure to any subsequent holder of the Bonds and subject to applicable securities laws and regulations thereunder.

8. The Bonds, the Bond Resolution and the other certificates, opinions and documents delivered in connection with the issuance of the Bonds

contain such terms and are in such form that are acceptable to the Purchaser.

9. We have had the opportunity to consult with and be advised by legal counsel as to the significance of this letter and we have satisfied ourselves that the Bonds are a lawful investment for us under applicable laws.

Very truly yours,

BRANCH BANKING AND TRUST COMPANY

Russell R. Akers

By: Russell R. Akers
Its: Vice President

NUMBER

AR-1

SPECIMEN

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A (BB and T)

NUMBER: AR-1 INTEREST RATE: 4.74%

MATURITY DATE: June 1, 2025 BOND DATE: May 14, 2010

REGISTERED OWNER: BRANCH BANKING AND TRUST CO.

PRINCIPAL AMOUNT: FIVE HUNDRED NINETY THOUSAND DOLLARS ($590,000)

KNOW ALL MEN BY THESE PRESENTS THAT the LUBECK PUBLIC SERVICE DISTRICT, (hereinafter called the "Issuer"), for value received, promises to pay to the order of Branch Banking and Trust Co., or its registered assigns (the "Purchaser"), but solely from the sources and in the manner hereinafter provided, the principal sum of FIVE HUNDRED NINETY THOUSAND DOLLARS ($590,000), in lawful money of the United States of America, together with interest on the unpaid principal balance thereof from the date of advance as endorsed hereon until paid, as follows:

The Bonds shall be payable and shall mature as follows:

(A) Interest shall be at a fixed rate of 4.74% per annum and shall be determined on the basis of a 365/360 day actual year times the actual principal amount of the Bonds outstanding up to and including the day immediately preceding the interest payment date.

(B) Payments of principal and interest shall be made on the 1st day of each month, beginning July 1, 2010 ("Principal and Interest Payment Dates"). This Bond shall be amortized in 180 payments over a period of 15 years, as described in Exhibit A. Such payments shall be payable by check or draft mailed to the Paying Agent or by wire transfer, as directed by the Purchaser.

SPECIMEN

(C) Notwithstanding any other provision of this Bond or the Resolution to the contrary, in the event the interest on this Bond is declared to be includible in gross income for federal income tax purposes by the Internal Revenue Service ("Determination of Taxability"), the rate of interest on the Bonds shall be payable at the rate of 2% above the prime rate published in the money rate column of the Wall Street Journal, as the same may change from time to time from the date of determination (the "Taxable Rate"). Interest at the Taxable Rate shall commence to accrue on the date upon which a Determination of Taxability becomes effective, and such interest rate shall be charged retroactively and prospectively for all periods in which interest paid on the Bonds is asserted, declared or determined to be includable in gross income for federal income tax purposes, and shall continue until the entire principal of and interest on the Bonds are paid, notwithstanding that the entire principal amount of the Bonds may have been paid in full prior to the Determination of Taxability and any interest being past due by reason of such increase shall become immediately due and payable; further, the present or former owners of the Bonds shall be entitled to payment, on demand, of any Special Charges. Special Charges means (a) an amount equal to any penalties or interest paid to the Internal Revenue Service or to the State by the present and former owners of the Bonds resulting from the failure to include interest on the Bonds in their gross income for purposes of determining their federal income tax or State income tax, plus any tax payable by them as a consequence of the receipt of such amount; plus (b) an amount equal to all reasonable administrative, out-of-pocket and other expenses, including legal fees and costs, incurred by the present and former holders which are directly or indirectly attributable to interest on the Bonds becoming subject to federal or State income tax as a result of the failure to include interest on the Bonds in their gross income for purposes of determining their federal or State income tax, including, without limitation, costs incurred by the present and former Bondholders in amending their federal or State tax returns. Principal and interest on this bond are payable by the Issuer on the Principal and Interest Payment Dates. The principal of and interest on this Bond are payable in lawful money of the United States of America without deduction for the services of the paying agent.

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 WATER REVENUE BONDS, SERIES 1990 A, DATED APRIL 2, 1990, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $3,139,013; WATER REVENUE BONDS, SERIES 1997, DATED MARCH 27, 1997, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $535,000; WATER REVENUE BONDS, SERIES 2005 A, DATED JUNE 17, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $1,573,000; WATER REVENUE BONDS, SERIES 2005 B, DATED JUNE 17, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $2,068,300; AND WATER REVENUE BONDS, SERIES 2005 C, DATED JUNE 17, 2005, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF $472,000 (THE "FIRST LIEN

BONDS"). THE BONDS SHALL BE SENIOR AND PRIOR WITH RESPECT TO LIENS, PLEDGE AND SOURCE AND SECURITY FOR PAYMENT AND IN ALL RESPECTS WITH THE ISSUER'S WATER REVENUE BONDS, SERIES 1990 B, DATED APRIL 2, 1990, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF $146,487 (THE "SERIES 1990 B BONDS").

This Bond is issued with the intent that the laws of the State of West Virginia shall govern its construction. This Bond constitutes the entire issuance of an authorized issue of Water Revenue Bonds, Series 2010 A (BB and T) (the "Bonds"), issued in the aggregate principal amount of $590,000 pursuant to the provisions of Chapter 16, Article 13A of the Code of West Virginia, 1931, as amended (the "Act"), for the purpose of financing all or a portion of the cost of the acquisition and construction of certain additions and betterments to the Issuer's Waterworks System (the "Project") and the cost of issuance thereof. The Bonds are issued under and are equally and ratably secured by and entitled to the protection of the Bond Resolution adopted by the Issuer on May 13, 2010 (the "Bond Resolution") and supplemented and amended by the Supplemental Resolution adopted on May 13, 2010 (collectively, the "Resolution").

An executed counterpart of the Resolution is on file at the office of said Issuer. The Resolution contains provisions for the issuance of Parity Bonds. Reference is hereby made to the Resolution and Supplemental Resolutions supplemental thereto for the provisions, among others, with respect to the custody and application of the proceeds of the Bonds, the collection and disposition of revenues, the special subaccounts and revenues charged with and pledged to the payment of the principal of and interest on the Bonds, the nature and extent of the security, the terms and conditions under which the Bonds are issued, the terms and conditions under which Additional Bonds may be issued, the rights, duties and obligations of the Issuer, and the rights of the holders of the Bonds, and, by the acceptance of this Bond, the holder hereof assents to all the provisions of the Resolution.

This Bond is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar but only in the manner, subject to the limitations and upon payment of the charges provided in the Resolution, and upon surrender and cancellation of this bond. Upon such transfer a new bond or bonds of the same series, interest rate, maturity or maturities and of authorized denomination or denominations, for the same aggregate principal amount, will be issued to the transferee in exchange therefore.

The Issuer and Paying Agent may deem and treat the Registered Owner thereof as the absolute owner hereof (whether or not this Bond shall be overdue) for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

The Bonds may, at the option of the Registered Owner thereof, upon the surrender thereof at the principal office of the Registrar with a written instrument of transfer, in form and with guarantee of signature satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney, be exchanged for an equal aggregate principal amount of fully registered bonds of the same series, maturity and interest rate of any other authorized denomination.

This Bond is subject to prepayment of the principal balance in whole on a scheduled payment date with a 1% prepayment premium.

The Bonds are limited special obligations of the Issuer and are payable solely out of the money payable under the Resolution and the Issuer and shall not be obligated to pay the Bonds or the interest thereon, except from the special funds derived from the Resolution. Under the Resolution, the Issuer must pay the Paying Agent such payments as will be fully sufficient to pay the principal of and interest on the Bonds, as the same mature.

The Registered Owner of the Bond shall have no right to enforce the provisions of the Resolution or to institute any action to enforce the covenants therein, or to take any action with respect to any event of default under the Resolution, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Resolution. In certain events, on the conditions, in the manner and with the effect set forth in the Resolution, the principal of all the bonds issued under the Resolution and then outstanding, may become or may be declared due and payable before the stated maturity thereof together with interest accrued thereon. Modifications or alterations of the Resolution, or of any supplements thereto, may be made only to the extent and in the circumstances permitted by the Resolution.

Under the Act, this Bond and the interest hereon are exempt from all taxation by the State of West Virginia or any county, municipality, political subdivision or agency thereof.

This bond has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. The Issuer does not reasonably expect to issue more than $30,000,000 of tax-exempt obligations during the calendar year 2010 (excluding, however, private activity bonds, as defined in Section 141 of the Code, other than qualified Section 501(c)(3) bonds, as defined in Section 145 of the Code, and certain refunding bonds, as described in Section 265(b)(3)(D)(ii) of the Code), and the Issuer has designated the Bonds as "qualified tax-exempt obligations," as defined in Section 265(b)(3)(B) of the Code.

In accordance with the requirements of the United States Department of Agriculture for the issuance of parity obligations, this Bond will be in default should any proceeds of this Bond be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts and conditions necessary to be done or performed by the Issuer or to have happened precedent to and in the issuance of this Bond in order to make this Bond a legal, valid and binding special obligation of the Issuer in accordance with its terms, and precedent to and in the execution and delivery of the Resolution, have happened and have been performed in regular and due form as required by law; that this Bond does not exceed or violate any constitutional or statutory limitation and that a sufficient amount of money has been pledged to and will be set aside into the Principal and Interest Account by the Issuer for the prompt payment of the principal of and interest on this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication and Registration appearing hereon shall have been duly and manually executed by the Registrar.

IN WITNESS WHEREOF, the LU BECK PUBLIC SERVICE DISTRICT has caused this Bond to be executed in its name by the manual signature of its Chairperson and its seal to be hereunto impressed or imprinted hereon and attested by the manual signature of its Secretary, all as of the date set forth above.

LUBECK PUBLIC SERVICE DISTRICT

(SEAL)

By: _____
Chairperson

SPECIMEN

By: _____
Secretary

SPECIMEN

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 2010 A Bonds described in the within named Bond Resolution and has been duly registered in the name set forth above as of the date set forth below.

Dated: May 14, 2010.

BRANCH BANKING AND TRUST COMPANY,
as Registrar

By: _____
Authorized Officer

SPECIMEN

AR-1

Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

EXHIBIT A

DEBT SERVICE SCHEDULE

SPECIMEN

Compound Period ..... : Monthly

Nominal Annual Rate .... : 4.740 %

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Loan	05/14/2010	590,000.00	1		
2	Payment	07/01/2010	4,597.03	180	Monthly	06/01/2025

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	05/14/2010				590,000.00
2010 Totals		0.00	0.00	0.00	
1	07/01/2010	4,597.03	3,734.32	862.71	589,137.29
2	08/01/2010	4,597.03	2,327.09	2,269.94	586,867.35
3	09/01/2010	4,597.03	2,318.13	2,278.90	584,588.45
4	10/01/2010	4,597.03	2,309.12	2,287.91	582,300.54
5	11/01/2010	4,597.03	2,300.09	2,296.94	580,003.60
6	12/01/2010	4,597.03	2,291.01	2,306.02	577,697.58
7	01/01/2011	4,597.03	2,281.91	2,315.12	575,382.46
8	02/01/2011	4,597.03	2,272.76	2,324.27	573,058.19
9	03/01/2011	4,597.03	2,263.58	2,333.45	570,724.74
10	04/01/2011	4,597.03	2,254.36	2,342.67	568,382.07
11	05/01/2011	4,597.03	2,245.11	2,351.92	566,030.15
12	06/01/2011	4,597.03	2,235.82	2,361.21	563,668.94
2011 Totals		55,164.36	28,833.30	26,331.06	
13	07/01/2011	4,597.03	2,226.49	2,370.54	561,298.40
14	08/01/2011	4,597.03	2,217.13	2,379.90	558,918.50
15	09/01/2011	4,597.03	2,207.73	2,389.30	556,529.20
16	10/01/2011	4,597.03	2,198.29	2,398.74	554,130.46
17	11/01/2011	4,597.03	2,188.82	2,408.21	551,722.25
18	12/01/2011	4,597.03	2,179.30	2,417.73	549,304.52
19	01/01/2012	4,597.03	2,169.75	2,427.28	546,877.24
20	02/01/2012	4,597.03	2,160.17	2,436.86	544,440.38
21	03/01/2012	4,597.03	2,150.54	2,446.49	541,993.89
22	04/01/2012	4,597.03	2,140.88	2,456.15	539,537.74
23	05/01/2012	4,597.03	2,131.17	2,465.86	537,071.88
24	06/01/2012	4,597.03	2,121.43	2,475.60	534,596.28
2012 Totals		55,164.36	26,091.70	29,072.66	
25	07/01/2012	4,597.03	2,111.66	2,485.37	532,110.91
26	08/01/2012	4,597.03	2,101.84	2,495.19	529,615.72
27	09/01/2012	4,597.03	2,091.98	2,505.05	527,110.67

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Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

SPECIMEN

	Date	Payment	Interest	Principal	Balance
28	10/01/2012	4,597.03	2,082.09	2,514.94	524,595.73
29	11/01/2012	4,597.03	2,072.15	2,524.88	522,070.85
30	12/01/2012	4,597.03	2,062.18	2,534.85	519,536.00
31	01/01/2013	4,597.03	2,052.17	2,544.86	516,991.14
32	02/01/2013	4,597.03	2,042.12	2,554.91	514,436.23
33	03/01/2013	4,597.03	2,032.02	2,565.01	511,871.22
34	04/01/2013	4,597.03	2,021.89	2,575.14	509,296.08
35	05/01/2013	4,597.03	2,011.72	2,585.31	506,710.77
36	06/01/2013	4,597.03	2,001.51	2,595.52	504,115.25
2013 Totals		55,164.36	24,683.33	30,481.03	
37	07/01/2013	4,597.03	1,991.26	2,605.77	501,509.48
38	08/01/2013	4,597.03	1,980.96	2,616.07	498,893.41
39	09/01/2013	4,597.03	1,970.63	2,626.40	496,267.01
40	10/01/2013	4,597.03	1,960.25	2,636.78	493,630.23
41	11/01/2013	4,597.03	1,949.84	2,647.19	490,983.04
42	12/01/2013	4,597.03	1,939.38	2,657.65	488,325.39
43	01/01/2014	4,597.03	1,928.89	2,668.14	485,657.25
44	02/01/2014	4,597.03	1,918.35	2,678.68	482,978.57
45	03/01/2014	4,597.03	1,907.77	2,689.26	480,289.31
46	04/01/2014	4,597.03	1,897.14	2,699.89	477,589.42
47	05/01/2014	4,597.03	1,886.48	2,710.55	474,878.87
48	06/01/2014	4,597.03	1,875.77	2,721.26	472,157.61
2014 Totals		55,164.36	23,206.72	31,957.64	
49	07/01/2014	4,597.03	1,865.02	2,732.01	469,425.60
50	08/01/2014	4,597.03	1,854.23	2,742.80	466,682.80
51	09/01/2014	4,597.03	1,843.40	2,753.63	463,929.17
52	10/01/2014	4,597.03	1,832.52	2,764.51	461,164.66
53	11/01/2014	4,597.03	1,821.60	2,775.43	458,389.23
54	12/01/2014	4,597.03	1,810.64	2,786.39	455,602.84
55	01/01/2015	4,597.03	1,799.63	2,797.40	452,805.44
56	02/01/2015	4,597.03	1,788.58	2,808.45	449,996.99
57	03/01/2015	4,597.03	1,777.49	2,819.54	447,177.45
58	04/01/2015	4,597.03	1,766.35	2,830.68	444,346.77
59	05/01/2015	4,597.03	1,755.17	2,841.86	441,504.91
60	06/01/2015	4,597.03	1,743.94	2,853.09	438,651.82
2015 Totals		55,164.36	21,658.57	33,505.79	
61	07/01/2015	4,597.03	1,732.67	2,864.36	435,787.46
62	08/01/2015	4,597.03	1,721.36	2,875.67	432,911.79
63	09/01/2015	4,597.03	1,710.00	2,887.03	430,024.76
64	10/01/2015	4,597.03	1,698.60	2,898.43	427,126.33
65	11/01/2015	4,597.03	1,687.15	2,909.88	424,216.45
66	12/01/2015	4,597.03	1,675.65	2,921.38	421,295.07
67	01/01/2016	4,597.03	1,664.12	2,932.91	418,362.16
68	02/01/2016	4,597.03	1,652.53	2,944.50	415,417.66

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Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

SPECIMEN

	Date	Payment	Interest	Principal	Balance
69	03/01/2016	4,597.03	1,640.90	2,956.13	412,461.53
70	04/01/2016	4,597.03	1,629.22	2,967.81	409,493.72
71	05/01/2016	4,597.03	1,617.50	2,979.53	406,514.19
72	06/01/2016	4,597.03	1,605.73	2,991.30	403,522.89
2016 Totals		55,164.36	20,035.43	35,128.93	
73	07/01/2016	4,597.03	1,593.92	3,003.11	400,519.78
74	08/01/2016	4,597.03	1,582.05	3,014.98	397,504.80
75	09/01/2016	4,597.03	1,570.14	3,026.89	394,477.91
76	10/01/2016	4,597.03	1,558.19	3,038.84	391,439.07
77	11/01/2016	4,597.03	1,546.18	3,050.85	388,388.22
78	12/01/2016	4,597.03	1,534.13	3,062.90	385,325.32
79	01/01/2017	4,597.03	1,522.04	3,074.99	382,250.33
80	02/01/2017	4,597.03	1,509.89	3,087.14	379,163.19
81	03/01/2017	4,597.03	1,497.69	3,099.34	376,063.85
82	04/01/2017	4,597.03	1,485.45	3,111.58	372,952.27
83	05/01/2017	4,597.03	1,473.16	3,123.87	369,828.40
84	06/01/2017	4,597.03	1,460.82	3,136.21	366,692.19
2017 Totals		55,164.36	18,333.66	36,830.70	
85	07/01/2017	4,597.03	1,448.43	3,148.60	363,543.59
86	08/01/2017	4,597.03	1,436.00	3,161.03	360,382.56
87	09/01/2017	4,597.03	1,423.51	3,173.52	357,209.04
88	10/01/2017	4,597.03	1,410.98	3,186.05	354,022.99
89	11/01/2017	4,597.03	1,398.39	3,198.64	350,824.35
90	12/01/2017	4,597.03	1,385.76	3,211.27	347,613.08
91	01/01/2018	4,597.03	1,373.07	3,223.96	344,389.12
92	02/01/2018	4,597.03	1,360.34	3,236.69	341,152.43
93	03/01/2018	4,597.03	1,347.55	3,249.48	337,902.95
94	04/01/2018	4,597.03	1,334.72	3,262.31	334,640.64
95	05/01/2018	4,597.03	1,321.83	3,275.20	331,365.44
96	06/01/2018	4,597.03	1,308.89	3,288.14	328,077.30
2018 Totals		55,164.36	16,549.47	38,614.89	
97	07/01/2018	4,597.03	1,295.91	3,301.12	324,776.18
98	08/01/2018	4,597.03	1,282.87	3,314.16	321,462.02
99	09/01/2018	4,597.03	1,269.77	3,327.26	318,134.76
100	10/01/2018	4,597.03	1,256.63	3,340.40	314,794.36
101	11/01/2018	4,597.03	1,243.44	3,353.59	311,440.77
102	12/01/2018	4,597.03	1,230.19	3,366.84	308,073.93
103	01/01/2019	4,597.03	1,216.89	3,380.14	304,693.79
104	02/01/2019	4,597.03	1,203.54	3,393.49	301,300.30
105	03/01/2019	4,597.03	1,190.14	3,406.89	297,893.41
106	04/01/2019	4,597.03	1,176.68	3,420.35	294,473.06
107	05/01/2019	4,597.03	1,163.17	3,433.86	291,039.20
108	06/01/2019	4,597.03	1,149.60	3,447.43	287,591.77
2019 Totals		55,164.36	14,678.83	40,485.53	

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Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

SPECIMEN

	Date	Payment	Interest	Principal	Balance
109	07/01/2019	4,597.03	1,135.99	3,461.04	284,130.73
110	08/01/2019	4,597.03	1,122.32	3,474.71	280,656.02
111	09/01/2019	4,597.03	1,108.59	3,488.44	277,167.58
112	10/01/2019	4,597.03	1,094.81	3,502.22	273,665.36
113	11/01/2019	4,597.03	1,080.98	3,516.05	270,149.31
114	12/01/2019	4,597.03	1,067.09	3,529.94	266,619.37
115	01/01/2020	4,597.03	1,053.15	3,543.88	263,075.49
116	02/01/2020	4,597.03	1,039.15	3,557.88	259,517.61
117	03/01/2020	4,597.03	1,025.09	3,571.94	255,945.67
118	04/01/2020	4,597.03	1,010.99	3,586.04	252,359.63
119	05/01/2020	4,597.03	996.82	3,600.21	248,759.42
120	06/01/2020	4,597.03	982.60	3,614.43	245,144.99
2020 Totals		55,164.36	12,717.58	42,446.78	
121	07/01/2020	4,597.03	968.32	3,628.71	241,516.28
122	08/01/2020	4,597.03	953.99	3,643.04	237,873.24
123	09/01/2020	4,597.03	939.60	3,657.43	234,215.81
124	10/01/2020	4,597.03	925.15	3,671.88	230,543.93
125	11/01/2020	4,597.03	910.65	3,686.38	226,857.55
126	12/01/2020	4,597.03	896.09	3,700.94	223,156.61
127	01/01/2021	4,597.03	881.47	3,715.56	219,441.05
128	02/01/2021	4,597.03	866.79	3,730.24	215,710.81
129	03/01/2021	4,597.03	852.06	3,744.97	211,965.84
130	04/01/2021	4,597.03	837.27	3,759.76	208,206.08
131	05/01/2021	4,597.03	822.41	3,774.62	204,431.46
132	06/01/2021	4,597.03	807.50	3,789.53	200,641.93
2021 Totals		55,164.36	10,661.30	44,503.06	
133	07/01/2021	4,597.03	792.54	3,804.49	196,837.44
134	08/01/2021	4,597.03	777.51	3,819.52	193,017.92
135	09/01/2021	4,597.03	762.42	3,834.61	189,183.31
136	10/01/2021	4,597.03	747.27	3,849.76	185,333.55
137	11/01/2021	4,597.03	732.07	3,864.96	181,468.59
138	12/01/2021	4,597.03	716.80	3,880.23	177,588.36
139	01/01/2022	4,597.03	701.47	3,895.56	173,692.80
140	02/01/2022	4,597.03	686.09	3,910.94	169,781.86
141	03/01/2022	4,597.03	670.64	3,926.39	165,855.47
142	04/01/2022	4,597.03	655.13	3,941.90	161,913.57
143	05/01/2022	4,597.03	639.56	3,957.47	157,956.10
144	06/01/2022	4,597.03	623.93	3,973.10	153,983.00
2022 Totals		55,164.36	8,505.43	46,658.93	
145	07/01/2022	4,597.03	608.23	3,988.80	149,994.20
146	08/01/2022	4,597.03	592.48	4,004.55	145,989.65
147	09/01/2022	4,597.03	576.66	4,020.37	141,969.28
148	10/01/2022	4,597.03	560.78	4,036.25	137,933.03
149	11/01/2022	4,597.03	544.84	4,052.19	133,880.84

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Lubeck Public Service District, WV
Water Revenue Bond for Water Tank Upgrades
003-1221101-001

SPECIMEN

	Date	Payment	Interest	Principal	Balance
150	12/01/2022	4,597.03	528.83	4,068.20	129,812.64
151	01/01/2023	4,597.03	512.76	4,084.27	125,728.37
152	02/01/2023	4,597.03	496.63	4,100.40	121,627.97
153	03/01/2023	4,597.03	480.43	4,116.60	117,511.37
154	04/01/2023	4,597.03	464.17	4,132.86	113,378.51
155	05/01/2023	4,597.03	447.85	4,149.18	109,229.33
156	06/01/2023	4,597.03	431.46	4,165.57	105,063.76
2023 Totals		55,164.36	6,245.12	48,919.24	
157	07/01/2023	4,597.03	415.00	4,182.03	100,881.73
158	08/01/2023	4,597.03	398.48	4,198.55	96,683.18
159	09/01/2023	4,597.03	381.90	4,215.13	92,468.05
160	10/01/2023	4,597.03	365.25	4,231.78	88,236.27
161	11/01/2023	4,597.03	348.53	4,248.50	83,987.77
162	12/01/2023	4,597.03	331.75	4,265.28	79,722.49
163	01/01/2024	4,597.03	314.90	4,282.13	75,440.36
164	02/01/2024	4,597.03	297.99	4,299.04	71,141.32
165	03/01/2024	4,597.03	281.01	4,316.02	66,825.30
166	04/01/2024	4,597.03	263.96	4,333.07	62,492.23
167	05/01/2024	4,597.03	246.84	4,350.19	58,142.04
168	06/01/2024	4,597.03	229.66	4,367.37	53,774.67
2024 Totals		55,164.36	3,875.27	51,289.09	
169	07/01/2024	4,597.03	212.41	4,384.62	49,390.05
170	08/01/2024	4,597.03	195.09	4,401.94	44,988.11
171	09/01/2024	4,597.03	177.70	4,419.33	40,568.78
172	10/01/2024	4,597.03	160.25	4,436.78	36,132.00
173	11/01/2024	4,597.03	142.72	4,454.31	31,677.69
174	12/01/2024	4,597.03	125.13	4,471.90	27,205.79
175	01/01/2025	4,597.03	107.46	4,489.57	22,716.22
176	02/01/2025	4,597.03	89.73	4,507.30	18,208.92
177	03/01/2025	4,597.03	71.93	4,525.10	13,683.82
178	04/01/2025	4,597.03	54.05	4,542.98	9,140.84
179	05/01/2025	4,597.03	36.11	4,560.92	4,579.92
180	06/01/2025	4,597.03	17.11	4,579.92	0.00
2025 Totals		55,164.36	1,389.69	53,774.67	
Grand Totals		827,465.40	237,465.40	590,000.00	

NUMBER

AR-1

(Form of Assignment)

SPECIMEN

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

_____

(Please print or type name, address and Social Security Number of Transferee) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, as Attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

In the presence of:

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

BOND REGISTER

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

Bond Number	Principal Amount	Date of Bond
No. AR-1	$590,000	May 14, 2010

NO WRITING ON THIS BOND REGISTER EXCEPT BY THE REGISTRAR

Name of Registered Owner:

Branch Banking and Trust Company
501 Tennessee Avenue
Charleston, WV 25302

Signature of Registrar:

Branch Banking and Trust Company
Charleston, West Virginia

Russell R. Akers II
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

3.6

May 14, 2010

Lubeck Public Service District
Washington, West Virginia

Branch Banking and Trust Company
Charleston, West Virginia

Re: Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T)

Ladies and Gentlemen:

We have served as bond counsel to Lubeck Public Service District (the "Issuer") in connection with the issuance of its Water Revenue Bonds, Series 2010 A (BB and T), dated the date hereof (the "Bonds").

We have examined certified copies of proceedings and other papers relating to the authorization of (i) a commitment letter for the purchase of the Bonds, dated May 14, 2010, including all schedules and exhibits attached thereto (the "Commitment Letter"), from Branch Banking and Trust Company (the "Purchaser"), and (ii) the Bonds to be purchased by the Purchaser in accordance with the provisions of the Commitment Letter. The Bonds are issued in the principal amount of $590,000, in the form of one bond, registered as to principal and interest with an interest rate of 4.74% per annum payable monthly on the 1st of each month, commencing July 1, 2010, all as set forth in the schedule attached to the Commitment Letter 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 of the Code of West Virginia, 1931, as amended (the "Act"), for the purposes of (i) paying a portion of the costs of acquisition and construction of certain improvements and extensions to the existing public water facilities of the Issuer (the "Project"); and (ii) paying certain costs of issuance and related costs.

Clarksburg, WV • Martinsburg, WV • Morgantown, WV • Wheeling, WV
Denver, CO • Lexington, KY • Pittsburgh, PA • Washington, DC

We have also examined the applicable provisions of the Act and a Bond Resolution duly adopted by the Issuer on May 13, 2010, as supplemented by a Supplemental Resolution duly adopted by the Issuer on May 13, 2010 (collectively, the "Resolution"), pursuant to and under which Act and Resolution the Bonds are authorized and issued. 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. All capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Resolution when used herein.

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

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System, to adopt the Resolution and to issue and sell the Bonds, all under the Act and other applicable provisions of law.

2. The Commitment Letter has been approved by the Issuer.

3. 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.

4. The Bonds have been duly authorized, issued, executed and delivered by the Issuer to the Purchaser 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 First Lien Bonds and senior and prior to the Series 1990 B Bonds, all in accordance with the terms of the Bonds and the Resolution.

5. Under the Act, the Bonds and the interest, if any, thereon are exempt from taxation by the State of West Virginia and the other taxing bodies of the State.

6. The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and has covenanted that it does not reasonably expect to issue, together with any subordinate entities, more than $30,000,000 of tax-exempt obligations (other than certain private activity bonds and refunding bonds) during the calendar year 2010. Therefore, the Bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Code.

7. Under existing laws, regulations, rulings and judicial decisions of the United States of America, as presently written and applied, assuming certain continuing compliance with certain covenants and the accuracy of certain representations contained in the Tax Certificate under Sections 103(b)(2) and 148 of the Code, interest on the Bonds is excludable from gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Code and is not an item of tax preference for purposes of the federal alternative minimum tax imposed upon individuals and corporations under the Code and for purposes of the alternative minimum tax imposed on corporations (as defined for federal income tax purposes) under Section 56 of the Code, interest on the Bonds is not included in computing adjusted current earnings. The opinions set forth above are subject to the condition that the Issuer comply, on a continuing basis, with all requirements of the Code that must be satisfied subsequent to issuance and delivery of the Bonds for interest thereon to be and continue to be excludable from gross income for federal income tax purposes and all certifications, covenants and representations which may affect the excludability from gross income of the interest on the Bonds set forth in the Bond Resolution and the Tax Certificate, and other certificates delivered in connection with the issuance of the Bonds. The Issuer has covenanted to comply with certain provisions and procedures pursuant to which such requirements can be satisfied. Failure to comply with certain of such Code requirements or such certifications, covenants and representations could cause the interest on the Bonds to be includable in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds, irrespective of the date on which such noncompliance is ascertained. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

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

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

Very truly yours,

Jackson Kelly PLLC

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

May 14, 2010,
Our 38th Year.

Lubeck Public Service District,
301 Ox Johnson Lane, Post Office Box 700,
Washington, West Virginia 26181-0700.

Branch Banking and Trust Company
Charleston, West Virginia

JacksonKelly PLLC,
Post Office Box 553,
Charleston, West Virginia 25322-0553.

In re: Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T)

Ladies and Gentlemen:

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 (the "Bonds"), a commitment letter for the purchase of the Bonds, dated May 14, 2010, including all schedules and exhibits attached thereto (the "Commitment Letter"), from Branch Banking and Trust Company, a Bond Resolution duly adopted by the Public Service Board of the Issuer (the "Board") on May 13, 2010, as supplemented by a Supplemental Resolution duly adopted on May 13, 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 Commitment Letter and the Resolution when used herein.

I am of the opinion that:

1. The Issuer is a duly created and validly existing public service district and is a public corporation and political subdivision of the State of West Virginia, with full power and authority to acquire and construct the Project, to operate and maintain the System and to adopt the Resolution, all under the Act and other applicable provisions of law.

2. The members and officers of the Board have been duly and properly appointed and elected, have taken the requisite oaths and are thereby authorized to act on behalf of the Issuer in their respective capacities.

3. The Commitment Letter has been approved by the Issuer.

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 consummation of the transactions contemplated by the Bonds and the Resolution, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any resolution, agreement or other instrument to which the Issuer is a party or any existing law, regulation, court order or consent decree to which the Issuer is subject.

6. The Issuer has received all permits, licenses, approvals, consents, exemptions, orders, certificates, registrations and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bonds, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges for the use of the System, including, without limitation, all requisite permits, approvals, orders and certificates from The County Commission of Wood County, the West Virginia Bureau for Public Health and the Public Service Commission of West Virginia (the "PSC"). The Issuer has received the PSC Order approving the rates for the System. The Issuer has taken all actions required for the imposition of such rates and charges, including, without limitation, the adoption of a resolution prescribing such rates and charges. The Issuer has received the PSC Order entered on November 13, 2009, in Case No. 08-2016-PSWD-CN, approving the Project and approving the financing for the Project. The time for appeal of the November 13, 2009 Order has expired prior to the date hereof without any appeal having been filed. The Order remains in full force and effect.

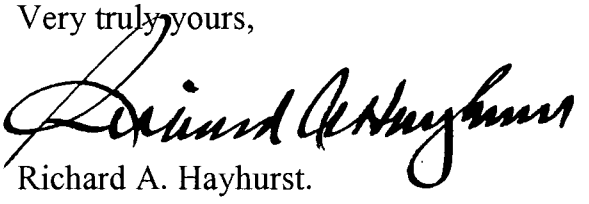
7. The Issuer has duly published the required notice with respect to, among other things, the amount of the Bonds to be issued, the interest rate and terms of the Bonds, the Project to be acquired or constructed, the cost of the Project, the anticipated user rates and charges and any notice required to be filed in conjunction with obtaining approval from the PSC in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia, 1931, as amended, and has duly complied with the provisions thereof.

8. 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 Commitment Letter, the Bonds and the Resolution, the acquisition and construction of the Project, the operation of the System, the validity of the Bonds, the collection of the Gross Revenues or the pledge of the Net Revenues for the payment of the Bonds.

9. I have ascertained that all successful bidders have provided the drugfree workplace affidavit, submitted their drug free workplace plan, and the contracts contain language that complies with the Drug Free Workplace Act, Article 1D, Chapter 21 of the West Virginia Code. I have also ascertained that all successful bidders have made required provisions for all insurance and payment and performance bonds and I have reviewed such insurance policies or binders and such bonds for accuracy. I have reviewed the contracts, the surety bonds and the policies or other evidence of insurance coverage in connection with the Project and verified that such surety bonds and policies (1) are in compliance with the contracts; (2) are adequate in form, substance and amount to protect the various interests of the Issuer; (3) have been executed by duly authorized representatives of the proper parties; (4) meet the requirements of the Act, the Resolution and the Commitment Letter; and (5) all such documents constitute valid and legally binding obligations of the parties thereto in accordance with the terms, conditions and provisions thereof.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,



Richard A. Hayhurst.

RAH/23.

TAX CERTIFICATE

CERTIFICATE UNDER SECTIONS 103(b)(2) and 148 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED

The Lubeck Public Service District (the "Issuer") hereby certifies with respect to its $590,000 Water Revenue Bonds, Series 2010 A (BB and T) (the "Obligations"), dated May 14, 2010, to be issued on the date hereof (the "Closing Date"), which is the date of delivery of, and payment of more than a de minimus portion for, the Obligations, pursuant to the Bond Resolution adopted by the Issuer on May 13, 2010, effective on and as supplemented by a Supplemental Resolution, dated May 13, 2010 (collectively, the "Bond Resolution"), and which are to be acquired by Branch Banking and Trust Company, as Purchaser, that the following facts, estimates and circumstances regarding the amount and use of all of the Proceeds of the Obligations are, as of the Closing Date and according to the Issuer's best knowledge, information and belief, reasonably expected to exist or to occur:

A. Proceeds.

The Proceeds of the Obligations consist, and will consist, of the Sale Proceeds and Investment Proceeds. The Sale Proceeds will be advanced from time to time to pay Costs of the Project. At least five percent (5%) will be advanced on the Closing Date.

The Sale Proceeds of the Obligations have been calculated as follows:

Par Amount of Obligations	$590,000
Sale Proceeds	$590,000

B. Purpose of Issue.

The Proceeds of the Obligations will be used to provide funds for the Issuer to acquire and construct certain improvements and extensions to the existing public waterworks facilities of the Issuer, consisting of the cleaning, repairing, sandblasting, painting, and other improvements for the New England Ridge Water Storage Tank (a 200,000 gallon capacity elevated, column supported type water storage tank) and the Homewood Road Water Storage Tank (a 500,000 gallon capacity ground type water storage tank), together with the necessary appertaining work and any other water supply, treatment, distribution or storage improvements deemed necessary by the Issuer, together with all appurtenant facilities (the "Project"). The proceeds, together with certain other funds, will be used only:

(i) to finance the Project; and

(ii) to pay Costs of Issuance of the Obligations,

each of which constitutes a valid governmental purpose (the "Governmental Purpose").

The total amount of Sale Proceeds of the Obligations received, or deemed received, by the Issuer will not exceed the amount necessary to finance the Governmental Purpose. The Obligations are being issued at this time in such amount because the Issuer is obligated or will soon be obligated to make payments under a contract for the Project, which construction contract will be entered into on the date hereof or soon thereafter.

C. Yield on the Obligations.

(1) The price at which a substantial amount of the Obligations was sold is $590,000, which is par.

(2) The Yield on the Obligations is 4.74%.

(3) Neither the Issuer nor any Related Person to the Issuer has entered into or expects to enter into any Hedge with respect to the Obligations themselves.

D. Application of Sale Proceeds.

All of the Sale Proceeds of the Obligations will be used as described in this section.

(1) $577,050 will be used to pay Costs of the Project as defined in the Bond Resolution upon receipt of a requisition signed by an Authorized Representative of the Issuer.

(2) $12,950 will be used to pay Issuance Costs as defined in the Bond Resolution.

Any Proceeds not used in the manner set forth above will be used to pay Issuance Costs within six (6) months from the Closing Date, or will be used otherwise by the Issuer only with an approving opinion of Bond Counsel.

E. Expenditure of Proceeds.

The acquisition of the Project will commence shortly and the Issuer has incurred, or will incur within six (6) months after the Closing Date, a substantial binding commitment to expend at least five percent (5%) of its proportionate share of the Net Sale Proceeds of the Obligations on the Project. The Issuer expects to expend at least eighty-five percent (85%) of the Net Sale Proceeds within three (3) years after the Closing Date. The Project will proceed with due diligence to completion and the Proceeds will be spent on the Project no later than three (3) years after the Closing Date.

F. Investment of Proceeds.

(1) The Bond Resolution requires that the Issuer restrict the Use of the Proceeds of the Obligations in such manner and to such extent and take such other actions as may be necessary so that the Obligations will not constitute Arbitrage Bonds. Except for an amount equal to the

Minor Portion and amounts in Reasonably Required Reserve or Replacement Funds, neither the Gross Proceeds of the Obligations nor any Disposition Proceeds of the Obligations will be invested at a Materially Higher Yield after the expiration of any Applicable Temporary Periods. If any Gross Proceeds of the Obligations are still invested at a Materially Higher Yield after the expiration of the Applicable Temporary Period, Yield Reduction Payments will be made.

(2) Not more than fifty percent (50%) of the Proceeds of the Obligations will be invested in Nonpurpose Investments that have a substantially guaranteed Yield for at least four (4) years.

(3) Payments made by the Issuer into the Sinking Fund established under the Bond Resolution will be used to pay Debt Service on the Obligations monthly which is within a thirteen (13) month period, beginning on the date of deposit. Any Investment Proceeds earned thereon will be spent within one (1) year after the date of receipt. The Sinking Fund will be depleted at least once a year, except for a reasonable carryover amount (not to exceed the greater of (a) one year's earnings on the Revenue Fund or (b) one-twelfth (1/12) of annual Debt Service). The Sinking Fund will be used primarily to achieve a proper matching of revenues and Debt Service requirements of the Obligations within each year.

(4) Except for the Sinking Fund, no other account, Pledged Fund or credit facility has been or will be established to pay Debt Service of or premium, if any, on the Obligations. There are no moneys, sources of funds, securities or obligations that have been, or will be, pledged as collateral for the payment of Debt Service of or premium, if any, on the Obligations, and there are no moneys, sources of funds, securities or obligations with respect to which the Issuer has given or will give any reasonable assurance to any holder of the Obligations that such funds will be available to pay Debt Service of or premium, if any, on the Obligations.

G. General.

(1) Pursuant to the Bond Resolution, no portion of the Project will be sold or otherwise disposed of by the Issuer prior to the final principal maturity date of the Obligations.

(2) The Issuer hereby elects to treat the Obligations for purposes of satisfying the Spending Exceptions to Rebate described in Section 148(f) of the Code and Treas. Reg. §1.148-7 issued thereunder, pursuant to Treas. Reg. §1.148-7(b)(6)(ii).

(3) The Issuer will not make any prepayment of Debt Service of the Obligations to the Sinking Fund if such prepayment would cause the interest on the Obligations to be includable in the gross income, for federal income tax purposes, of any holder of the Obligations.

(4) There are no amounts, other than the Gross Proceeds of the Obligations, that are available for the Governmental Purpose. Except for the funds described in Section F, if any, there are no sinking funds or Pledged Funds and the term of the Obligations is not longer than reasonably necessary for the Governmental Purpose.

(5) Any Arbitrage Compliance Payments owed with respect to the Obligations will be remitted to the United States Treasury not later than sixty (60) days after (i) each Installment Computation Date, and (ii) the Final Computation Date for the Obligations.

(6) The Issuer has not employed in connection with the issuance of the Obligations a transaction or series of transactions that attempts to circumvent the provisions of Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the Treasury Regulations thereunder to enable the Issuer to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage and/or to increase the burden on the market for Tax-Exempt Bonds through actions such as issuing more obligations, issuing obligations sooner or allowing them to remain outstanding longer than would otherwise be necessary for the Governmental Purpose.

(7) The Issuer has not sold any obligations, nor does it expect to sell any obligations, other than the Obligations, within fifteen (15) days before or after the Sale Date of the Obligations pursuant to the same plan of financing for the Project or any related facilities which are payable from substantially the same source of funds as the Obligations.

(8) The Issuer has designated the Bonds as "qualified tax-exempt obligations" for purposes of Subsection 265(b) of the Code. The Issuer does not reasonably expect and covenants not to issue, or to have issued on its behalf, more than $30,000,000 of tax-exempt obligations, including the Bonds, during the calendar year 2010.

(9) The Issuer has never been advised of any listing or contemplated listing by the Internal Revenue Service to the effect that the Issuer's certification with respect to its obligations may not be relied upon and no notice to that effect has been published in the Internal Revenue Bulletin.

(10) To the best knowledge, information and belief of the undersigned, who is authorized by the Issuer to sign this certificate on behalf of the Issuer, the above expectations of the Issuer as stated herein are reasonable and there are no other facts, estimates or circumstances that would materially change the foregoing conclusion.

(11) Capitalized terms not defined in this Certificate are defined in the Memorandum of Instructions Regarding Use of Proceeds and Arbitrage Compliance (the "Memorandum of Instructions") to the Issuer, attached hereto and made a part hereof.

(12) This certificate is being executed and delivered pursuant to Treas. Regs. §§ 1.148-1 through –11 issued under the Code, of which the undersigned, with the advice of counsel, is generally familiar. On the basis of the foregoing, it is not expected that the Proceeds of the Obligations will be used in a manner that would cause the Obligations to be Arbitrage Bonds.

LUBECK PUBLIC SERVICE DISTRICT

By: _____
Name: Jerry R. Martin
Title: Chairperson

Dated: May 14, 2010

MEMORANDUM OF INSTRUCTIONS REGARDING USE OF PROCEEDS AND ARBITRAGE COMPLIANCE

To: Lubeck Public Service District

Date: May 14, 2010

Re: Lubeck Public Service District's $590,000 Water Revenue Bonds, Series 2010 A (BB and T)

This Memorandum of Instructions Regarding Use of Proceeds and Arbitrage Compliance (the " Memorandum") has been prepared with regard to the above-referenced obligations (the "Obligations"), which were issued May 14, 2010 (the "Closing Date") by Lubeck Public Service District (the "Issuer") pursuant to a Bond Resolution and a Supplemental Resolution, adopted on May 13, 2010, (collectively, the "Resolution"), to finance the cost of designing certain improvements and extensions to the existing public sewer facilities of the Issuer (the "Project"), as further described in the Resolution.

In the Bond Resolution, the Issuer covenanted not to take any actions that would cause the interest on the Obligations to become includable in gross income for federal income tax purposes. The Issuer has also certified to certain facts, current expectations and future actions in the Certificate under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as amended (the "No-Arbitrage Certificate"), relating to current and future investments and expenditures of the Proceeds of the Obligations. Pursuant to the Bond Resolution and the No-Arbitrage Certificate, the Issuer must not use the Proceeds of the Obligations or any property financed with such Proceeds if such Use would violate the restrictions of the Internal Revenue Code of 1986, as amended (the "Code").

This Memorandum is intended to provide you with guidance in complying with these restrictions, including the Private Activity Bond restrictions of Section 141 of the Code and the investment limitations and rebate requirements of Section 148 of the Code, as currently interpreted in regulations, rulings, notices and announcements that have been promulgated by the United States Treasury Department, including Treasury Regulations §§ 1.141-0 through 1.141-16 and §§ 1.148-0 through -11, and in court decisions to the extent necessary to ensure that interest on the Obligations remains excludible from gross income under Section 103(a) of the Code and does not become a specific item of tax preference under Section 57(a)(5)(C) of the Code for the federal alternative minimum tax.

For purposes of this Memorandum, any requirements relating to a fund or account held under the Bond Resolution and/or applicable provision of the laws of the State of West Virginia apply only to that portion of such fund or account allocable to the Obligations. Please refer to the No-Arbitrage Certificate and the Appendix to this Memorandum for definitions of the capitalized terms used herein.

1. Use of the Proceeds.

(a) General Restrictions. Not more than ten percent (10%) of the Use of either the Proceeds of the Obligations or the Project may be Private Use if more than ten percent (10%) of the principal of or interest on the Obligations is secured or to be paid, either directly or indirectly, by any Private User, not more than five percent (5%) of the Use of either the Proceeds of the Obligations or the Project may be Unrelated Private Use or Disproportionate Private Use and not more than the lesser of five percent (5%) of the Proceeds of the Obligations or $150,000 may be used to make Private Loans.

(b) Expenditures for the Project. The Issuer must expect to incur, within six months after the Closing Date, a substantial binding commitment to an Unrelated Person to expend at least five percent (5%) of its proportionate share of the Net Sale Proceeds of the Obligations and the initiation of design of the Project must commence within a reasonable period of time after the Closing Date. It has certified that the Project will commence shortly. The Issuer must expect that (i) it will expend at least eighty-five percent (85%) of the Net Sale Proceeds of the Obligations within three (3) years after the Closing Date, (ii) the design of the Project will proceed with due diligence to completion, and (iii) the Proceeds of the Obligations will be spent within three (3) years after the Closing Date. For this purpose, a Reimbursement Allocation may be treated as an expenditure. The total amount of Sale Proceeds, together with Investment Proceeds, must not exceed the amount necessary for the Project, including, to the extent permitted, issuance expenses and interest during design.

(c) Reimbursement Allocations. The Issuer may not allocate any of the Proceeds of the Obligations to Capital Expenditures that were paid prior to sixty (60) days before the date on which the Issuer adopted a Reimbursement Resolution authorizing the issuance of debt to finance the Project, except that allocations of any Proceeds of the Obligations for Costs of Issuance paid before the Closing Date, for certain preliminary Capital Expenditures not in excess of twenty percent (20%) of the Issue Price of the Obligations, and for an amount of Capital Expenditures not in excess of the lesser of five percent (5%) of the issue or $100,000 may be made even if the expenditure was paid more than sixty (60) days prior to the date of adoption of the Reimbursement Resolution described herein and even if the allocation would not otherwise qualify as a Reimbursement Allocation. The Issuer has authorized to reimburse itself for engineering costs in the Supplemental Resolution adopted May 14, 2010.

(d) Service Contracts.

(i) Post-May 15, 1997 Contracts and Modifications. The Issuer should not enter into, materially modify or extend (other than pursuant to a Renewal Option existing on May 15, 1997) a Service Contract with any Service Provider to manage, provide services in, or otherwise use the Project, unless:

(A) Reasonable Compensation. The compensation is reasonable for the services rendered by the Service Provider and the Service Contract does not provide for any compensation based, in whole or in part, on a share of net profits from the operation of the Project, and

(B) Compensation Arrangements. The compensation arrangement during each annual period during the term of the Service Contract complies with the terms of Subparagraphs (B)(I), (II), (III), or (IV) of this Subsection:

(I) Fixed Fee.

(*a*) 95% Fixed. At least ninety-five percent (95%) of the consideration for services is based on a Periodic Fixed Fee, which may include an Incentive Award; provided however that the term (including Renewal Options) of such Service Contract does not exceed the lesser of eighty percent (80%) of the expected useful life of the Project or fifteen (15) years;

(*b*) 80% Fixed. At least eighty percent (80%) of the consideration for services is based on a Periodic Fixed Fee, which may include an Incentive Award; provided, however that the term (including Renewal Options) of such Service Contract does not exceed the lesser of eighty percent (80%) of the expected useful life of the Project or ten (10) years; or

(*c*) 50% Fixed. At least fifty percent (50%) of the consideration for services is based on a Periodic Fixed Fee; provided, however, that the term (including Renewal Options) of such Service Contract does not exceed five (5) years and the contract includes a Cancellation Right at the end of the third year of the Service Contract;

(II) Capitation Fee. More than fifty percent (50%) of the consideration for services is based on a Capitation Fee and any remaining consideration is based on a Periodic Fixed Fee; provided, however, that the term (including Renewal Options) of such Service Contract does not exceed five (5) years and the contract includes a Cancellation Right at the end of the third year of the Service Contract;

(III) Per-Unit Fee. More than fifty percent (50%) of the consideration for services is based on a Per-Unit Fee and any remaining consideration is based on a Periodic Fixed Fee; provided, however, that the term (including Renewal Options) of such Service Contract does not exceed three (3) years, and the contract includes a Cancellation Right at the end of the second year of the Service Contract; or

(IV) Percentage Fee. All the consideration for services is a percentage of fees charged or costs incurred (but not both) or is a combination of a percentage of fees charged or costs incurred and Per-Unit Fees; provided, however, that the term (including Renewal Options) of such Service Contract does not exceed two (2) years and the contract includes a Cancellation Right at the end of the first year of the Service

Contract; and provided, further, that such Service Contract is one under which the Service Provider primarily provides services to third parties, or the Service Contract is one that involves a facility during an initial startup period for which there have been insufficient operations to establish a reasonable estimate of the amount of the annual gross revenues and expenses, during which time, the consideration may be based on a percentage of gross revenues, adjusted gross revenues or costs;

(C) Control. Not more than twenty percent (20%) of the voting power of the governing body of the Issuer, in the aggregate, should be vested in the Service Provider or in the Service Provider's directors, officers, shareholders and employees. Additionally, the respective chief executive officers of the Issuer and the Service Provider and of the governing bodies of the Issuer and the Service Provider should not serve on the governing body of the other and the Issuer and the Service Provider should not be members of the same controlled group, as defined in Treas. Reg. § 1.150-1(e) or Related Persons; and

(D) Exception. Any agreements that do not satisfy Subparagraphs (i)(A) – (C) of this Subsection or Rev. Proc. 97-13, 1997-1 C.B. 632, may be entered into provided that the Issuer receives an opinion of Bond Counsel that to do so would not adversely affect the Federal Tax Status of the Obligations; and

(ii) Pre-May 16, 1997 Contracts. The Issuer must have ascertained that any Service Contract entered into prior to May 16, 1997 satisfies the provisions of either Rev. Proc. 93-19, 1993-1 C.B. 526 or Subparagraph (i) of this Subsection or the Issuer should have received an opinion of Bond Counsel that the existing Service Contract will not adversely affect the Federal Tax Status of the Obligations.

(e) Changes in Use or User of Project.

(i) Use of the Project. The Issuer must expect that it will use the Project for the entire stated term of the Obligations unless the Obligations are subject to a Mandatory Redemption Provision.

(ii) Sales, Other Dispositions and Leases. Except as otherwise provided in Subparagraph (iv) of this Subsection, no part of the Project should be sold, otherwise disposed of or leased unless the Issuer obtains an opinion of Bond Counsel that either (A) such sale, other disposition or lease will not adversely affect the Federal Tax Status of the Obligations, or (B) the Issuer satisfies the requirements for a Remedial Action.

(iii) Changes in Use. Except as otherwise provided in Subparagraph (iv) of this Subsection, the Issuer should not permit any Use of the Project by any person or entity other than itself unless it obtains an opinion of Bond Counsel that either (A) such Use will not constitute a Change in Use or otherwise adversely affect the Federal Tax Status of the Obligations, or (B) the Issuer satisfies the requirements for a Remedial Action.

(iv) Exception for Dispositions of Personal Property. Any portion of the Project that consists of personal property may be sold in the ordinary course of an established

governmental program if (A) the weighted average maturity of the portion of the Obligations financing the personal property was not greater than one hundred twenty percent (120%) of the reasonably expected actual Use of such personal property by the Issuer, (B) the Issuer expected on the Closing Date that the fair market value of the personal property at the time of disposition would not be greater than twenty-five percent (25%) of its cost, and (C) at the time of disposition, the personal property is no longer suitable for the governmental purpose for which it was acquired.

(v) Agreement of New User. Prior to the sale, exchange or other disposition of any portion of the Project to any person or entity or the Use of any portion of the Project by any person or entity other than itself, and assuming that the requirements of the other Paragraphs of this Section are satisfied, the Issuer should require that the new user will use that portion of the Project in a manner that will not violate the directions contained in this Memorandum.

2. Investment of the Proceeds.

(a) General Investment Restrictions. The Bond Resolution requires that the Issuer restrict the Use of the Proceeds of the Obligations in such manner and to such extent and take such other actions as may be necessary so that the Obligations will not constitute Arbitrage Bonds. Except for an amount equal to the Minor Portion and amounts in Reasonably Required Reserve or Replacement Funds, neither the Gross Proceeds of the Obligations nor any Disposition Proceeds of the Obligations may be invested at a Materially Higher Yield after the expiration of any Applicable Temporary Periods. If any amount of Gross Proceeds of the Obligations is still invested at a Materially Higher Yield after the expiration of the Applicable Temporary Period, Yield Reduction Payments may be owed.

(b) Hedge Bond Restriction. Not more than fifty percent (50%) of the Sale Proceeds of the Obligations may be invested in any Nonpurpose Investment having a substantially guaranteed Yield for four or more years.

(c) Reasonably Required Reserve or Replacement Fund. Either no amount on deposit in all Reasonably Required Reserve or Replacement Funds for the Obligations, including any amounts held by any provider of a letter of credit or guarantor under a reimbursement or other similar agreement, should exceed the least of (i) ten percent (10%) of the stated principal amount of the Obligations, (ii) the maximum annual Debt Service of the Obligations, or (iii) one hundred twenty-five percent (125%) of average annual Debt Service of the Obligations, or the amount held in all Reasonably Required Reserve or Replacement Funds in excess of the lowest of these limits may not be invested at a Materially Higher Yield or, if the amount so invested satisfies Treas. Reg. § 1.148-5(c)(3)(i)(E), appropriate Yield Reduction Payments should be timely made.

(d) Separate Investments. The Issuer should invest the Proceeds of the Obligations separately from any other of its investments.

(e) Acquisition of Investments.

(i) General Rule. Investment Property must be acquired and disposed of on an established market, in arms'-length transactions, at a price equal to the fair market value and no amounts should be paid to reduce the Yield on the Investment Property.

(ii) Certificates of Deposit ("CD's"). CD's may only be purchased if:

(A) Maker. The CD is issued by a commercial bank;

(B) Terms. It has a fixed interest rate, a fixed principal payment schedule and a substantial penalty for early withdrawal; and

(C) Yield. It has a Yield that is:

(I) Comparable. Not less than the Yield on a reasonably comparable direct obligation of the United States; and

(II) Highest Available. Not less than the highest Yield published or posted by the commercial bank to be currently available from that bank for comparable CD's offered to the public;

(iii) Guaranteed Investment Contracts. GIC's may only be purchased if:

(A) Competitive Bids. A bona fide solicitation for the GIC with specified terms, in writing, is timely made to at least three (3) reasonably competitive providers, each with an established industry reputation;

(B) Bid Specifications. The bid specifications include all material terms, including the reasonably expected draw-down schedule for the funds being invested, exclusive of amounts in any Bona Fide Debt Service Fund or any Reasonably Required Reserve or Replacement Fund, and all terms are commercially reasonable, with a legitimate business purpose other than to increase the Purchase Price or reduce the Yield;

(C) No Tie-In. The bid specifications notify the bidders that any bidder will be treated as representing to the Issuer that it has not consulted with any other bidder about its bid, that its bid is made without regard to any other agreement, formal or informal, with any person, including the Issuer, and that its bid is genuine and not a mere courtesy bid to enable the Issuer to comply with Treas. Reg. § 1.148-5(d)(6)(iii)(B);

(D) No Second Look. All bidders have an equal opportunity to bid and no bidder is given the opportunity to review the bid made by any other bidder;

(E) Bids. At least three bids responding to bid solicitations that meet the requirements of Subparagraph (B) of this Paragraph are received from different providers of GIC's with no material financial interest, directly or indirectly, in the Obligations and at least one of these bids is from a reasonably competitive provider, as described in Subparagraph (A) of this Paragraph, and none are

received from any agent conducting the bidding. For this purpose, the financial advisors of the Issuer with respect to the purchase of the GIC and, for fifteen (15) days after the Closing Date, a lead underwriter in a negotiated underwriting are all deemed to have a material financial interest in the issue;

(F) Highest Yield. The Yield (determined net of broker's fees) on the GIC purchased is the highest Yield of the qualifying bids;

(G) Bidding Fee. The amount of the fee charged by the bidding agent for the GIC that will be treated as a Qualified Administrative Fee in determining the Yield on the GIC is limited to the greater of (I) a reasonable amount, as described in Treas. Reg. § 1.148-5(e)(2)(i), issued under the Code; or (II) the present value of annual payments equal to two-tenths of one percent (0.2%) of the GIC Computational Base, with a maximum of $30,000 and a minimum of $3,000 if the amount determined under (II) is less, provided that the total such fees for any such investments made with the Proceeds of the Obligations does not exceed $85,000. The amounts specified herein shall be subject to change under the cost of living adjustment provisions of Treas. Reg. § 1.148-5(e)(2)(iii)(B);

(H) Administrative Costs. The provider of the GIC certifies the administrative costs incurred in connection with the GIC reasonably expected to be paid to third parties;

(iv) United States Treasury Obligations ("Treasuries"). Treasuries may only be purchased if:

(A) Direct Purchases. The Treasuries are purchased directly from the United States Treasury (such as SLGS); or

(B) Other Purchases. The purchase complies with the following:

(I) GIC Bid Rules. The Bid meets the requirements of Subparagraphs (iii)(A) and (B) of this Section, except that the bid does not need to specify an expected drawdown schedule;

(II) Cost. The Purchase Price of the Treasuries:

(*a*) Lowest Cost. Is either the lowest cost bid for the entire portfolio, or the lowest aggregate cost, determined on a security-by-security basis;

(*b*) Seller Payments. Includes any payments made by the seller of the Treasuries to the Issuer; and

(*c*) Comparison to SLGS. Is not greater than the cost of the most efficient portfolio comprised of SLGS determined at the time of the bid submission, unless SLGS are not then available; and

(III) Bidding Fee. The amount of the fee charged by the bidding agent that will be treated as a Qualified Administrative Fee in determining the Yield on Treasuries not purchased directly from the United States Treasury is limited to the greater of (I) a reasonable amount, as described in Treas. Reg. § 1.148-5(e)(2)(i), issued under the Code; or (II) the present value of annual payments equal to two-tenths of one percent (0.2%) of the Yield-Restricted Investment Computational Base, with a maximum of $30,000 and a minimum of $3,000 if the amount determined under (II) is less, provided that the total such fees for any such investments made with the Proceeds of the Obligations does not exceed $85,000. The amounts specified herein shall be subject to change under the cost of living adjustment provisions of Treas. Reg. § 1.148-5(e)(2)(iii)(B).

3. Timing and Method of Determination of Arbitrage Compliance Payments. The Issuer covenanted in the Bond Resolution to take all actions necessary to comply with the rebate requirements applicable to investments of the Proceeds of the Obligations contained in Section 148(f) of the Code and the Treasury Regulations thereunder. In addition, if any of the Gross Proceeds of the Obligations in excess of the Minor Portion remain unspent beyond the available Applicable Temporary Periods, the Issuer must determine if any Yield Reduction Payment is owed. Any Hedge with respect to the Obligations could affect the determination of whether the Obligations are a fixed rate issue, under Treas. Reg. § 1.148-4(b) or a variable rate issue under Treas. Reg. 1.148-4(c) and could affect the calculation of the Yield on the Obligations for purposes of satisfying the Yield limitations of Section 148 of the Code and of determining any Rebate Amount. In addition, the sale of any right to redeem the Obligations could affect the Yield for purposes of calculating the Rebate Amount. The Issuer, therefore, must take the following actions:

(a) Installment Computation Date. No later than five (5) years after the Closing Date, the Issuer must select the initial Installment Computation Date for the Obligations.

(b) Collection of Records. Immediately after each Installment Computation Date and the Final Computation Date for the Obligations, the Issuer must assemble copies of records concerning investments of Gross Proceeds of the Obligations, including any amounts held by any provider of a letter of credit or guarantor under a reimbursement or other similar agreement, and provide all such information to the Rebate Analyst within thirty (30) days after each Installment Computation Date and the Final Computation Date for the Obligations, so that the Rebate Analyst can track all Investment Property acquired with the Gross Proceeds of the Obligations during the relevant Computation Period for the Obligations.

(c) Calculation of Arbitrage Compliance Payment. The Issuer must direct the Rebate Analyst to calculate the Rebate Amount, the Required Rebate, the Yield Reduction Amount and the Rebate Payment (the "Arbitrage Amounts") for the Obligations upon receipt of such records and in any event within forty-five (45) days after each Installment Computation Date and the Final Computation Date for the Obligations. In determining the Rebate Amount:

(i) Debt Service Funds. No amount in any Bona Fide Debt Service Funds may be included in Gross Proceeds of the Obligations.

(ii) Expenditures Made. Unless it would increase the Rebate Amount,

(A) Six-Month Expenditure Exception. No amount of Gross Proceeds of the Obligations, as modified by Treas. Reg. § 1.148-7(c)(3), need be included in Gross Proceeds of the Obligations if all such modified Gross Proceeds are expended within six (6) months after the Closing Date, or twelve (12) months for an amount equal to the lesser of five percent (5%) of the Sale Proceeds of the Obligations or $100,000; and

(B) Construction Expenditure Exception to Rebate. No amount of ACP need be included in Gross Proceeds of the Obligations, if the Construction Expenditure Amounts are expended by each of the Target Dates for the Obligations.

(d) Arbitrage Compliance Payments. No later than sixty (60) days after each Installment Computation Date and the Final Computation Date for the Obligations, the Issuer must remit an amount equal to the Arbitrage Compliance Payment, if any, for the Obligations to the United States Treasury at the office of the Internal Revenue Service prescribed by the Treasury Regulations or by the Commissioner of the Internal Revenue Service. The remittances must each be accompanied by any form or forms required, which may include (i) a statement summarizing the computation of the amount required to be paid as described in this Section and (ii) Internal Revenue Service Form 8038-T or such other forms as may be required.

4. Records.

(a) General. The Issuer must keep proper records and accounts, which should contain complete and correct entries of all transactions relating to the Obligations and the Gross Proceeds of the Obligations. The Issuer should retain the information described in this Section for at least six (6) years after the Redemption Date of the Obligations.

(b) Project Expenditures. All requisitions, disbursements, allocations, applications and payments made for the Project, including all such items made with Gross Proceeds of the Obligations, should be kept in a separate record.

(c) Investments.

(i) General. The Issuer must keep a separate record of all purchases and sales of Investment Property made with the Gross Proceeds of the Obligations, including money derived from, pledged to or to be used to pay Debt Service of the Obligations. The records should specify the account or fund in which each Investment Property is to be held and should set forth for each Investment Property, (A) the Purchase Price, (B) identifying information, including par amount, coupon rate, and payment dates, (C) the amount received at maturity or the sale price, as the case may be, including accrued interest, (D) the amounts and dates of any payments made with respect thereto, and (E) the dates of acquisition and disposition or maturity.

(ii) Guaranteed Investment Contracts. The Issuer must keep copies of the contract and the bid solicitation, any deviation from specifications accepted and any

amendment to the bids received, and the reasons for such changes and every bid submitted, including the name of the person and entity submitting the bid, the time and date of the bid and the bid results.

(iii) Treasuries for Yield-Restricted Escrows. If the Treasuries are not purchased directly from the United States Treasury, the Issuer must keep copies of the bid solicitation form, any deviation from the specifications that are accepted and any amendment to the bids received and the reasons for such changes, and every bid submitted, including the name of the person and entity submitting the bid, and the cost of the most efficient portfolio of SLGS, unless SLGS were not then available.

(d) Arbitrage Compliance. The Issuer must keep copies of all records relating to the determination of Arbitrage Compliance Payments.

5. Security.

(a) General Restrictions. Not more than ten percent (10%) of the principal of or interest on the Obligations may be secured or paid, either directly or indirectly by any Private User if there is Private Use in excess of ten percent (10%) of the Proceeds of the Obligations or of the Project.

(b) No Federal Guarantee. The Gross Proceeds of the Obligations may not be invested in any Investment Property that is Federally-Guaranteed and no portion of the Debt Service of the Obligations may be Federally-Guaranteed, either directly or indirectly.

Since the requirements of Sections 141 and 148 of the Code may be amplified in the future and interpretations of the requirement may change, we may amend or supplement this Memorandum from time to time to reflect such changes. In addition, you may seek clarification of the requirements of this Memorandum, particularly whether any specified action is still required or whether some further or different action is required.

By its acknowledgement of receipt of this Memorandum, the Issuer hereby agrees to comply with the directions given in this document. To that end, the Issuer should also require that the Trustee comply with such requirements with respect to any Gross Proceeds of the Obligations of which the Trustee has custody or otherwise supervises.

Received and acknowledged:

LUBECK PUBLIC SERVICE DISTRICT

By: Jerry R. Martin

Name: Jerry R. Martin

Title: Chairperson

Date: May 14, 2010

APPENDIX

DEFINITIONS

In addition to words and terms elsewhere defined in this Memorandum and in the No-Arbitrage Certificate, the following words and terms used in this Memorandum shall have the following meanings, unless some other meaning is plainly intended:

"AMT Bond" means a Qualified Private Activity Bond, other than a Qualified 501(c)(3) Bond, the interest on which is a specific item of tax preference under Section 57(a)(5)(C) of the Code, subject to the federal alternative minimum tax under Section 55 of the Code.

"Applicable Temporary Period" means the temporary investment period available for each particular category of Gross Proceeds of Governmental Obligations, as provided in Treas. Reg. § 1.148-2(e), during which time such Gross Proceeds may be invested at a Materially Higher Yield. The Applicable Temporary Period for amounts in a Capital Acquisition Fund is three (3) years from the Closing Date of the Governmental Obligations, the Applicable Temporary Period for any amount deposited in a Bona Fide Debt Service Fund is thirteen (13) months from the date of deposit in such fund, the Applicable Temporary Period for any Investment Proceeds of Governmental Obligations is one (1) year from the date of receipt of such amounts, the Applicable Temporary Period for any Replacement Proceeds of Governmental Obligations is thirty (30) days from the date such amounts become Replacement Proceeds and the Applicable Temporary Period for any Disposition Proceeds of Governmental Obligations will be determined under Treas. Reg. § 1.141-12(a).

"Arbitrage Bond" means any Governmental Obligation that is treated as an arbitrage bond under Sections 103(b)(2) and 148 of the Code.

"Arbitrage Compliance Payment" means any Rebate Payment and any Yield Reduction Payment.

"Available Construction Proceeds ("ACP")" means the portion of the Proceeds, as specially defined in Section 148(f)(4)(C)(vi) of the Code, of Governmental Obligations allocable to Construction Expenditures.

"Bona Fide Debt Service Fund" means a fund that is used primarily to achieve a proper matching of revenues with Debt Service of Governmental Obligations within each Bond Year and is depleted at least once each Bond Year, except for the Permitted Carryover.

"Bond Counsel" means a nationally recognized bond counsel experienced in municipal finance, particularly in the issuance of Tax-Exempt Bonds.

"Bond Year" means the period commencing on the Closing Date of Governmental Obligations and ending on a date within one year after such Closing Date and then each one-year period commencing the day after such date and each anniversary of such date thereafter.

"Cancellation Right" means the right of a Governmental Entity to cancel a contract on reasonable notice without penalty or cause.

"Capital Acquisition Fund" means a fund that is to be used to finance the purchase, construction and acquisition of assets and facilities that qualify as Capital Expenditures.

"Capital Expenditure" means any expense that is properly depreciable or amortizable or is otherwise treated as a capital expenditure under the Code and, for the purposes of determining eligible Reimbursement Allocations, Costs of Issuance.

"Capitation Fee" means a fixed amount paid per individual covered, so long as the types and quantity of services actually provided to covered individuals varies substantially, which fee may increase automatically, based on a specific, objective, external standard unrelated to the output or efficiency of the facility being managed. For this purpose, up to twenty percent (20%) of the total fee may consist of a variable component to protect the Service Provider from catastrophic loss.

"Change in Use" means any sale, exchange, lease or other disposition and any contract for any sale, exchange, lease or other disposition of any portion of a Governmental Facility to any Private User or any Use of such facility that would be a Private Use.

"Closing Date" means the date obligations are issued and paid for, as provided in Treas. Reg. § 1.150-1(b).

"Computation Period" means the period from the Closing Date of Governmental Obligations or the day after any Installment Computation Date for such obligations through the next Installment Computation Date or through the Final Computation Date for the obligations, as applicable.

"Construction Expenditure" means any Capital Expenditure that is allocable to the cost of constructing real or personal property, as defined in Treas. Reg. § 1.148-7(g). Such expenditures do not include costs of acquiring interests in land or existing property, but may include costs for reconstruction and rehabilitation.

"Construction Expenditure Amount" means the amount of ACP of Governmental Obligations that must be expended by each Target Date for such obligations, pursuant to Section 148(f)(4)(C)(ii) of the Code. The Construction Expenditure Amount for the First Target Date is ten percent (10%) of the ACP, the Construction Expenditure Amount for the Second Target Date is forty-five percent (45%) of the ACP, the Construction Expenditure Amount for the Third Target Date is seventy-five percent (75%) of the ACP and the Construction Expenditure Amount for the Fourth Target Date is one hundred percent (100%) of the ACP, except that if certain amounts are to be retained for a reasonable business purpose relating to the facilities being financed with the Proceeds of the Governmental Obligations at the Fourth Target Date, ninety-five percent (95%) shall apply instead of one hundred percent (100%). If ninety-five percent (95%) (rather than one hundred percent (100%)) is used at the Fourth Target Date, then one hundred percent (100%) of the ACP must be spent by the Fifth Target Date. For these purposes, a Reimbursement Allocation shall be treated as an expenditure.

"Construction Expenditure Exception to Rebate" means Treas. Reg. § 1.148-7(e), which provides that Governmental Obligations which qualify as a Construction Issue will be treated as satisfying the rebate requirements of Section 148 of the Code if the Construction Expenditure Amounts are spent by the Target Dates for such obligations and any Required Rebate owed on Proceeds of such obligations that are not ACP is paid.

"Construction Issue" means an issue or portion of an issue of Governmental Obligations if at least seventy-five percent (75%) of the Proceeds of such issue or portion will finance Construction Expenditures.

"Cost of Issuance" means any expenditure incurred in connection with the issuance of Governmental Obligations, including such costs as underwriters' spread, rating agency fees, appraisal costs, attorneys' and accountants' fees and printing costs, but excluding Qualified Guarantee Fees or expenditures incurred in connection with the acquisition of the facilities financed with the Proceeds of such obligations.

"Debt Service" means any principal and interest payments on obligations.

"Demand Deposit SLGS" means any SLGS described in 31 CFR 344, Subpart C.

"Disposition Cash" means the Disposition Proceeds of Governmental Bonds with respect to the sale, exchange or other disposition of any Governmental Facilities when such proceeds consist exclusively of cash.

"Disposition Proceeds" means the amounts, including property, received from the sale, exchange or other disposition of any Governmental Facilities, as provided in Treas. Reg. § 1.141-12(c).

"Disproportionate Private Use" means the excess of Related Private Use over the Related Governmental Use.

"Eligible Yield-Restricted Proceeds" means any Yield-Restricted Proceeds, as specially described in Treas. Reg. § 1.148-5(c)(3), of Governmental Obligations the Yield on which may be reduced by making Yield Reduction Payments.

"Escrow Fund" means a fund to hold Investment Property that has been created for a particular purpose.

"Federal Tax Status" means the classification of any Tax-Exempt Bond as a Governmental Bond.

"Federally-Guaranteed" means having the payment of any Debt Service of Governmental Obligations or any loan made with Proceeds of such obligations guaranteed, in whole or in part, directly or indirectly, by the United States, or acquiring any Investment Property that is, directly or indirectly federally-insured, except as otherwise permitted by Section 149(b) of the Code.

"Final Computation Date" means the Redemption Date of Governmental Obligations, but no earlier than eight (8) months after the Closing Date of such obligations, unless the

Governmental Issuer reasonably expects that the Construction Expenditure Exception to Rebate will apply, in which event, it means the Final Target Date of the obligations, if later than the Redemption Date.

"Final Target Date" means the Fourth or the Fifth Target Date for Governmental Obligations, as may be applicable.

"501(c)(3) Organization" means an organization described in Section 501(c)(3) of the Code and determined by the Internal Revenue Service to be exempt from taxation under Section 501(a) of the Code.

"Future Value" means future value, as defined in Treas. Reg. § 1.148-3(c).

"GIC Computational Base" means the amount of Gross Proceeds of Governmental Obligations reasonably expected to be deposited, as of the date the contract is acquired, over the term of the contract.

"Governmental Bond" means any Governmental Obligation that satisfies the requirements of Section 103 and 141 through 150 of the Code and is not a Private Activity Bond.

"Governmental Entity" means any State and any political subdivision and agency of any State.

"Governmental Facility" means any property owned by one or more Governmental Entities financed or refinanced with Governmental Bonds, provided that not more than ten percent (10%) of such property is used by Private Users.

"Governmental Issuer" means the Governmental Entity that is the debtor on or issuer of a Governmental Obligation.

"Governmental Obligation" means any debt obligation of a Governmental Entity.

"Gross Proceeds" means Proceeds and Replacement Proceeds, determined pursuant to Treas. Regs. §§ 1.148-1(b) and -1(c), of Governmental Obligations, until spent.

"Guaranteed Investment Contract ("GIC")" means any Nonpurpose Investment that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, as well as any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

"Hedge" means any contract with respect to Governmental Obligations that creates an interest rate swap, an interest rate cap, the right to future delivery of Investment Property, or the right to sell or buy either the obligations or Investment Property purchased with the Proceeds of such obligations, or other similar rights.

"Hedge Bond" means any Governmental Obligation that is described in Section 149(g)(3)(A) of the Code, or is a Refunding Bond of a Hedge Bond, or is a Refunding Bond of a Governmental Obligation issued before September 15, 1989 that has an average maturity date

later than the average maturity date of the obligation being retired or redeemed or exceeds the amount of such obligation.

"Incentive Award" means a one-time single, stated dollar increase in the amount of the Periodic Fixed Fee during the term of a Service Contract, given when either a gross revenue target or a gross expense target (but not both) is met.

"Independent" means not being a shareholder, partner, member, director, trustee, officer or employee of an entity.

"Installment Computation Date" means, generally, the date that is five years after the Closing Date of Governmental Obligations, unless an earlier date is chosen for this purpose, and thereafter, the date that is five years after the preceding Installment Computation Date, until the Final Computation Date for the obligations.

"Investment Proceeds" means any amounts actually or constructively earned or received from investing the Proceeds of Governmental Obligations in Investment Property.

"Investment Property" means any security (as defined in Section 165(g)(2)(A) or (B) of the Code), obligation (not including any Tax-Exempt Bond unless an AMT Bond), annuity contract and other investment-type property and any Residential Rental Property.

"Issue Price" means, generally, the initial offering price to the public (not including bond houses and brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which a substantial amount (at least ten percent (10%) of each maturity) of Governmental Obligations is sold, unless such obligations are sold to one purchaser that intends to hold the obligations for investment and not resale to the general public, and then the Issue Price means the Purchase Price paid by such purchaser.

"Mandatory Redemption Provision" means a requirement that Governmental Obligations must be retired or redeemed within six months after the occurrence of a Private Use of the Proceeds of the obligations or of any facilities financed with such Proceeds, provided that, on the Closing Date of such obligations, the Governmental Issuer had Reasonable Use Expectations.

"Materially Higher Yield" means any Yield that is higher than the Yield permitted to be earned under Section 148 of the Code and Treas. Regs. §§ 1.148-1 through -11.

"Minor Portion" means an amount of the Proceeds of Governmental Obligations, other than Proceeds invested in a Reasonably Required Reserve or Replacement Fund or Proceeds invested during an Applicable Temporary Period, not in excess of the lesser of (i) five percent (5%) of the Proceeds of such obligations, or (ii) $100,000.

"Negative Pledge" means any agreement to maintain an amount of Investment Property at a particular level for the benefit, directly or indirectly, of any holder of Governmental Obligations or any guarantor of the obligations, except that any agreement under which the Governmental Issuer of such obligations can grant rights to the funds that are superior to the rights of any holder or guarantor of the obligations that meets the requirements of Treas. Reg. § 1.148-1(c)(3)(ii)(A) or any agreement under which the amount to be maintained is reasonable

and may be tested not more often than every six (6) months and that meets the requirements of Treas. Reg. § 1.148-1(c)(3)(ii)(B), shall not be treated as a Negative Pledge.

"Net Proceeds" means the Proceeds of Governmental Obligations less amounts thereof deposited in all Reasonably Required Reserve or Replacement Funds, if any.

"Net Sale Proceeds" means the Sale Proceeds of Governmental Obligations, less amounts thereof deposited in all Reasonably Required Reserve or Replacement Funds, if any, and less the Minor Portion.

"1954 Code" means the Internal Revenue Code of 1954, as amended through August 15, 1986, or as appropriate, to the date a particular debt instrument was issued.

"No-Arbitrage Certificate" means the "Certificate under Sections 103(b)(2) and 148 of the Internal Revenue Code of 1986, as Amended," given by the Governmental Issuer with respect to Governmental Obligations.

"Non-Governmental Person" means any natural person and any entity, other than a Governmental Entity.

"Nonpurpose Investment" means any Investment Property other than a Purpose Investment.

"Nonqualified Portion" means the portion of Governmental Obligations no longer deemed to finance Governmental Facilities following any Change in Use of such facilities, provided that the Nonqualified Portion is determined using the highest percentage of Private Use in the one-year period commencing with the Change in Use.

"Periodic Fixed Fee" means a fixed dollar amount for a specified period of time, which may increase automatically, based on a specific, objective, external standard unrelated to the output or efficiency of the facility being managed.

"Permitted Carryover" means an amount that does not exceed the greater of the earnings on the Bona Fide Debt Service Fund for Governmental Obligations for the immediately preceding Bond Year or one-twelfth (1/12) of the Debt Service of the obligations for the immediately preceding Bond Year.

"Per-Unit Fee" means a fee for each service performed, provided that the fee is specified in the contract, or is determined by an Independent person or organization or by the Governmental Issuer, which may also increase automatically, based on a specific, objective, external standard unrelated to the output or efficiency of the facility being managed.

"Pledged Fund" means any amount pledged, directly or indirectly, to pay Debt Service of Governmental Obligations, which provides reasonable assurance of such amounts being paid even if the Governmental Issuer experiences financial difficulties. Pledged Funds include amounts subject to a Negative Pledge.

"Pre-TRA Bond" means any Governmental Obligation the interest on which was excludible from gross income for federal income tax purposes pursuant to Sections 103 or 103A of the 1954 Code.

"Private Activity Bond" means any Governmental Obligation if (i) there is more than ten percent (10%) Private Use of the Proceeds of such obligations and more than ten percent (10%) of the principal of or interest on the obligations is secured or to be paid, either directly or indirectly, by any Private User; (ii) more than the lesser of five percent (5%) of the Proceeds of the obligations or $5,000,000 is used to make Private Loans; (iii) there is more than five percent (5%) Unrelated Private Use and more than five percent (5%) of the principal of or interest on the obligations is secured or to be paid, either directly or indirectly with respect to or from property financed with the Proceeds of the obligations that is used in an Unrelated Private Use; or (iv) there is more than five percent (5%) Disproportionate Private Use and more than five percent (5%) of the principal of or interest on such obligations is secured or to be paid, either directly or indirectly with respect to property financed with the obligations that is used in a Disproportionate Private Use, all as described in Section 141 of the Code.

"Private Loan" means any loan, directly or indirectly, of any of the Proceeds of Governmental Obligations to any Non-Governmental Person.

"Private Use" means the Use of any Proceeds of Governmental Obligations or any Governmental Facilities by Private Users.

"Private User" means any Non-Governmental Person, other than a natural person not engaged in a trade or business.

"Proceeds" means all Sale Proceeds, Investment Proceeds and Transferred Proceeds of Governmental Obligations.

"Purchase Price" means fair market value, as provided in Treas. Reg. § 1.148-5(d).

"Qualified Administrative Fee" means any reasonable, direct administrative cost, other than a carrying cost, such as a separately stated brokerage or selling commission, but does not include any legal or accounting fee, record keeping, custody, or similar costs, or general overhead costs and similar indirect costs of the Governmental Issuer.

"Qualified Alternative Use" means Use of Governmental Facilities by any person other than the Governmental Issuer of Governmental Obligations that financed such facilities following a Change in Use of the facilities in a manner that would qualify under any provision of Sections 103 and 141 through 150 of the Code, provided that all of the requirements of Treas. Reg. § 1.141-12(f) are satisfied and the acquisition is not financed with the Proceeds of an issue of Tax-Exempt Bonds other than such obligations or Refunding Bonds.

"Qualified Cash Defeasance" means the creation, with Investment Property purchased with the Disposition Cash remaining after being allocated to other Remedial Actions, of a Yield-Restricted Escrow within ninety (90) days after the sale, exchange or other disposition resulting in a Change in Use of any Governmental Facility to defease a pro rata portion of the Governmental Obligations issued to finance the facility at the earliest call date available,

provided that the Commissioner of the Internal Revenue Service is notified of the establishment of such escrow within ninety (90) days after its creation.

"Qualified Cash Redemption" means the retirement or redemption, with the Disposition Cash remaining after being allocated to Qualified Replacements, if any, of a pro rata portion of the Nonqualified Portion of Governmental Obligations within ninety (90) days after the sale, exchange or other disposition resulting in a Change in Use of any Governmental Facility financed with the Proceeds of such obligations. Although generally a pro rata portion of each maturity of the obligations must be retired or redeemed, the Governmental Issuer may instead retire or redeem any obligation so long as the weighted average maturity of the remaining obligations is not greater than the weighted average maturity of all the obligations immediately prior to the retirement or redemption.

"Qualified Defeasance" means the creation, with Investment Property of a Yield-Restricted Escrow within ninety (90) days after any Change in Use of any Governmental Facility to defease the Nonqualified Portion of the Governmental Obligations issued to finance the facility remaining after any Qualified Redemption at the earliest call date available, provided that the Commissioner of the Internal Revenue Service is notified of the establishment of such escrow within ninety (90) days after its creation, and a Qualified Cash Defeasance.

"Qualified 501(c)(3) Bond" means any Qualified Private Activity Bond that satisfies the requirements of Section 145 of the Code.

"Qualified Guarantee Fee" means any expenditure incurred in connection with obtaining a qualified guarantee of Governmental Obligations, within the meaning of Treas. Reg. § 1.148-4(f).

"Qualified Private Activity Bond" means any Private Activity Bond that satisfies the requirements of Section 141(e) of the Code.

"Qualified Redemption" means (i) the retirement or redemption of the Nonqualified Portion of Governmental Obligations within ninety (90) days after the Change in Use of any Governmental Facility financed with such obligations, and (ii) a Qualified Cash Redemption. Although generally a pro rata portion of each maturity of the obligations must be retired or redeemed, the Governmental Issuer may instead retire or redeem any obligation so long as the weighted average maturity of the remaining obligations is not greater than the weighted average maturity of all the obligations immediately prior to the retirement or redemption.

"Qualified Replacement" means the purchase, with Disposition Cash, of Replacement Property within two (2) years after the date of any sale, exchange or other disposition resulting in the Change in Use of a Governmental Facility, provided that any remaining Disposition Cash is used for a Qualified Cash Redemption or a Qualified Cash Defeasance.

"Reasonable Use Expectation" means the expectation, reasonably based on the facts known on the Closing Date of Governmental Obligations, that the facilities financed with the Proceeds of such obligations would be used as Governmental Facilities for a substantial period before any Private Use, provided that the Governmental Issuer does not enter into any arrangements with respect to such facilities with any Private User prior to such Closing Date.

"Reasonably Required Reserve or Replacement Fund" means any fund that is pledged as security for or is available for payment of any Debt Service of any Governmental Obligation and is reasonably required by the lender, a State or other governmental or regulatory authority having jurisdiction over the Governmental Issuer, a national bond rating agency, or an underwriter or financial advisor and that satisfies the limitations of Treas. Reg. § 1.148-2(f).

"Rebate Amount" means the excess of the Future Value of "Receipts" over the Future Value of "Payments" (each as defined in the Treasury Regulations) from and for Nonpurpose Investments, pursuant to Treas. Reg. § 1.148-3(b). For this purpose, a "computation credit" of $1,000 shall be treated as a "Payment" made on the last date of each Bond Year during which there are Gross Proceeds of the Governmental Obligations invested that are subject to the rebate provisions of Section 148(f) of the Code and Treas. Reg. § 1.148-3.

"Rebate Analyst" means Bond Counsel or a nationally recognized Independent public accounting firm.

"Rebate Payment" means the amount of Required Rebate that must be remitted to the United States Treasury pursuant to the Code and Treasury Regulations thereunder, plus penalties and interest, if any.

"Redemption Date" means the date on which the final payment of Debt Service of Governmental Obligations is made, whether upon maturity, redemption or acceleration thereof.

"Refunding Bond" means any Governmental Obligation the Proceeds of which are used to pay the Debt Service of or premium on another obligation of the obligor or of any Related Person, as provided in Treas. Reg. § 1.150-1(d).

"Reimbursement Allocation" means a written allocation of the Proceeds of Governmental Obligations intended to reimburse, pursuant to a Reimbursement Resolution, the Governmental Issuer for Capital Expenditures for facilities being financed with such obligations that were paid no earlier than sixty (60) days prior to the date of the Reimbursement Resolution, provided that any such allocation is made within eighteen (18) months after the later of the date the Capital Expenditure was paid or the date such facilities are placed in service, but in no event later than three (3) years after the payment date of the expenditure. Any written allocation made within thirty (30) days after the Closing Date of such obligations shall be treated as if made on such Closing Date.

"Reimbursement Resolution" means a declaration of intent, pursuant to Treas. Reg. § 1.150-2, issued under the Code, by a Governmental Issuer to finance Capital Expenditures with debt. For this purpose, the issuance of debt to finance specific facilities shall constitute a Reimbursement Resolution, the date of adoption of which shall be no later than the Closing Date of such debt.

"Related Governmental Use" means any Use of Governmental Facilities by a Governmental Entity that is related to the Use of such facilities by a Private User.

"Related Person" means a "related person" within the meaning of Section 147(a)(2) of the Code and a "related party" within the meaning of Treas. Reg. § 1.150-1(b).

"Related Private Use" means any Private Use that is not Unrelated Private Use.

"Remedial Action" means a Qualified Alternative Use, a Qualified Defeasance, a Qualified Redemption and/or a Qualified Replacement, provided that the Remedial Action Conditions are satisfied.

"Remedial Action Conditions" means that (i) either the Governmental Issuer (a) expected on the Closing Date of Governmental Obligations that there would be no Private Use of any facilities financed with the Proceeds of such obligations nor any Private Loan of any of such Proceeds, or (b) such obligations were subject to a Mandatory Redemption Provision, (ii) the weighted average maturity of such obligations on their Closing Date is not greater than 120 percent of the average reasonably expected economic life of the facilities financed with such Proceeds, (iii) the Private Use or Private Loan is granted at fair market value on bona fide, arm's length terms and (iv) the Proceeds of such obligations were originally spent for a Governmental Purpose.

"Renewal Option" means a legally enforceable right to renew a contract.

"Replacement Proceeds" means amounts replaced by Proceeds of Governmental Obligations, including any sinking fund, Pledged Fund, reserve or replacement fund, or other funds that would be expected to be used to pay Debt Service of any such obligations, within the meaning of Treas. Reg. § 1.148-1(c).

"Replacement Property" means any Governmental Facility.

"Required Rebate" means the amount determined by subtracting the Future Value, as of each Computation Date for Governmental Obligations, of all Rebate Payments for such obligations previously made from (i) on an Installment Computation Date for the obligations, at least ninety percent (90%) of the Rebate Amount determined as of that date, and (ii) on the Final Computation Date for the obligations, the Rebate Amount.

"Residential Rental Property" means any residential rental property for family units not located in the jurisdiction of the Governmental Issuer or not acquired to implement a court ordered or approved housing desegregation plan.

"Sale Date" means the first day on which the Governmental Issuer and the original purchasers of Governmental Obligations are bound, in writing, to the sale and purchase of such obligations on specific terms that are not later modified or adjusted.

"Sale Proceeds" means the Issue Price of Governmental Obligations, including amounts paid or deemed paid as underwriters' discount, but excluding amounts paid for interest accrued prior to the Closing Date of such obligations.

"Service Contract" means a contract between the Governmental Issuer and a Service Provider under which the Service Provider provides services involving any portion or function of a Governmental Facility.

"Service Provider" means any Private User that provides management or other services.

"SLGS" means any security that is part of the United States Treasury Obligation - State and Local Government Series.

"Spendable Proceeds" means Net Sale Proceeds of Governmental Obligations.

"State" means any state and possession of the United States of America and the District of Columbia.

"Target Date" means each of the dates by which the Construction Expenditure Amounts for Governmental Obligations must be spent. The First Target Date for such obligations is six (6) months after the Closing Date of the obligations; the Second Target Date is one (1) year after such Closing Date; the Third Target Date is eighteen (18) months after such Closing Date; the Fourth Target Date is two (2) years after such Closing Date and the Fifth Target Date is three (3) years after such Closing Date.

"Tax-Exempt Bond" means (i) any Governmental Obligation the interest on which is excludible from gross income for federal income tax purposes, pursuant to Sections 103 and 150(a)(6) of the Code, (ii) any Pre-TRA Bond, (iii) certain tax-exempt mutual funds, as provided in Treas. Reg. § 1.150-1(b), and (iv) any Demand Deposit SLGS.

"Transferred Proceeds" means any Proceeds of Governmental Obligations that become Proceeds of other Governmental Obligations, pursuant to Treas. Reg. § 1.148-9, following redemption of the former obligations.

"Treasury Regulation" and "Treas. Reg." means any Regulation, Proposed Regulation or Temporary Regulation, as may be applicable, issued by the United States Treasury Department pursuant to the Code or the 1954 Code, as appropriate.

"United States" means the United States of America and any agency or instrumentality thereof.

"United States Treasury Obligation" means any Investment Property that is an obligation of the United States Treasury.

"Unrelated Person" means any person and any entity that is not a Related Person and is Independent.

"Unrelated Private Use" means any Private Use that is not related to the Use by a Governmental Entity of Governmental Facilities.

"Unrelated Trade or Business" means a trade or business or similar activity carried on by a 501(c)(3) Organization that is unrelated to the exempt purpose of the 501(c)(3) Organization, within the meaning of Section 513 of the Code.

"Use" means (i) owning, (ii) leasing, (iii) managing or servicing, (iv) being entitled to the output of facilities financed with Governmental Obligations, or (v) having any other arrangement, agreement or understanding, whether written or oral, that (A) conveys special legal entitlements to any Private User with respect to such facilities, if available to the general public,

or (B) conveys special economic benefits to any Private User with respect to such facilities if not available for Use by the general public. Use pursuant to contracts meeting the requirements of Rev. Proc. 93-19, 1993-1 C.B. 526 or Rev. Proc. 97-13, 1997-1 C.B. 632, as modified by Rev. Proc. 2001-39, whichever is applicable, any applicable successor Revenue Ruling or Procedure or United States Treasury Regulation or as described in Section 1(d) of this Memorandum, does not constitute Use. Use by a natural person as an employee for federal income tax purposes of a user does not constitute Use.

"Yield" means that discount rate which, when computing the present value of all payments of Debt Service to be made on an obligation, produces an amount equal to, in the case of Governmental Obligations, their Issue Price, and in the case of any Investment Property purchased with the Gross Proceeds of Governmental Obligations, its Purchase Price, pursuant to Treas. Regs. §§ 1.148-4 and -5.

"Yield Reduction Amount" means, on each Installment Computation Date for Governmental Obligations, at least ninety percent (90%) of the excess of the Future Value of "Receipts" over the Future Value of "Payments" (each as defined in the Treasury Regulations) from and for Eligible Yield-Restricted Proceeds of such obligations invested at a Materially Higher Yield, less the Future Value of any previously paid Yield Reduction Payments for the obligations and, on the Final Computation Date, one hundred percent (100%) of the excess of the Future Value of "Receipts" over the Future Value of "Payments" (each as defined in the Treasury Regulations) from and for Eligible Yield- Restricted Proceeds of the obligations invested at a Materially Higher Yield, less the Future Value of any previously paid Yield Reduction Payments.

"Yield Reduction Payment" means any payment of the Yield Reduction Amount for Governmental Obligations made to the United States Treasury pursuant to Treas. Reg. § 1.148-5(c) with respect to Eligible Yield-Restricted Proceeds of such obligations invested at a Materially Higher Yield.

"Yield-Restricted Escrow" means Investment Property held in an Escrow Fund that, either together, or if Treas. Reg. § 1.148-10(b) applies, individually, may not be at a Materially Higher Yield, pursuant to Treas. Reg. § 1.148-2.

"Yield-Restricted Investment Computational Base" means the initial amount of Gross Proceeds of Governmental Obligations invested in the Investment Property.

"Yield-Restricted Proceeds" means any Gross Proceeds of Governmental Obligations that may not be invested at a Materially Higher Yield, pursuant to Section 148 of the Code.

JACKSONKELLY
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EMAIL: sgee@jacksonkelly.com

May 14, 2010

CERTIFIED - RETURN RECEIPT REQUESTED

91 7108 2133 3935 9079 6532

Internal Revenue Service Center
Ogden, UT 84201

Re: Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T)

Ladies and Gentlemen:

Enclosed are two copies of Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, relative to the above-described bond issue. Please file one copy and return one copy marked "Filed" to the undersigned in the enclosed postage paid, self-addressed envelope.

Very truly yours,

Samme L. Gee

SLG:lp

Enclosures

{C1778879.1}

Form **8038-G** (Rev. November 2000) Department of the Treasury Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)

▶ See separate Instructions.

Caution: *If the issue price is under $100,000, use Form 8038-GC.*

OMB No. 1545-0720

Part I Reporting Authority

If **Amended Return,** check here ▶ ☐

1	Issuer's name **Lubeck Public Service District**	2	Issuer's employer identification number **55 0455342**
3	Number and street (or P.O. box if mail is not delivered to street address) **P.O. Box 700**	Room/suite	4 Report number **3 2010-01**
5	City, town, or post office, state, and ZIP code **Washington, West Virginia**	6	Date of issue **05/14/2010**
7	Name of issue **Water Revenue Bonds, Series 2010 A**	8	CUSIP number **N/A**
9	Name and title of officer or legal representative whom the IRS may call for more information **James M. Cox, Manager**	10	Telephone number of officer or legal representative **(304) 863-3341**

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11	☐ Education	11	
12	☐ Health and hospital	12	
13	☐ Transportation	13	
14	☐ Public safety	14	
15	☑ Environment (including sewage bonds)	15	590,000
16	☐ Housing	16	
17	☐ Utilities	17	
18	☐ Other. Describe ▶	18	
19	If obligations are TANs or RANs, check box ▶ ☐ If obligations are BANs, check box ▶ ☐		
20	If obligations are in the form of a lease or installment sale, check box ▶ ☐		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	6/1/2025	$ 590,000	$ 590,000	8.4868 years	4.74 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest			22	
23	Issue price of entire issue (enter amount from line 21, column (b))			23	590,000
24	Proceeds used for bond issuance costs (including underwriters' discount)	24	12,950		
25	Proceeds used for credit enhancement	25			
26	Proceeds allocated to reasonably required reserve or replacement fund	26			
27	Proceeds used to currently refund prior issues	27			
28	Proceeds used to advance refund prior issues	28			
29	Total (add lines 24 through 28)			29	12,950
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			30	577,050

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31 Enter the remaining weighted average maturity of the bonds to be currently refunded ▶ _____ years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded ▶ _____ years

33 Enter the last date on which the refunded bonds will be called ▶ _____

34 Enter the date(s) the refunded bonds were issued ▶

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	0
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a	0
b	Enter the final maturity date of the guaranteed investment contract ▶ _____		
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a	0

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▶ ☑

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

40 If the issuer has identified a hedge, check box ▶ ☐

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

▶ Jerry R. Martin 5/14/2010 ▶ **Jerry R. Martin, Chairperson**

Signature of issuer's authorized representative — Date — Type or print name and title

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

3.10

RECEIPT FOR BONDS

The undersigned authorized representative of Branch Banking and Trust Company (the "Purchaser"), for and on behalf of the Purchaser, hereby certifies as follows:

1. On this 14th day of May, 2010, in Charleston, West Virginia, the Purchaser received the Water Revenue Bonds, Series 2010 A (BB and T), of Lubeck Public Service District (the "Issuer"), in the principal amount of $590,000, numbered AR-1, issued in the form of one bond, fully registered to the Purchaser, and dated May 14, 2010 (the "Bonds").

2. At the time of such receipt of the Bonds, they had been executed by the Chairperson of the Issuer and attested by the Secretary of the Issuer, by their respective manual signatures, and the official seal of the Issuer had been impressed upon the Bonds.

WITNESS my signature on this 14th day of May, 2010.

BRANCH BANKING AND TRUST COMPANY

Russell R Akers II
Authorized Representative

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

3.11

RECEIPT FOR BOND PROCEEDS

The undersigned Chairperson of Lubeck Public Service District (the "Issuer"), for and on behalf of the Issuer, hereby certifies as follows:

On this 14th day of May, 2010, the Issuer received from the Branch Banking and Trust Company (the "Purchaser"), as the original purchaser of the $590,000 Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T), dated May 14, 2010 (the "Series 2010 A Bonds"), the sum of $590,000, being the entire principal amount of the Series 2010 A Bonds. The Issuer understands that the remaining proceeds of the Series 2010 A Bonds will be advanced to the Issuer by the Purchaser from time to time as construction proceeds to completion.

WITNESS my signature on this 14th day of May, 2010.

LUBECK PUBLIC SERVICE DISTRICT

Jerry R Mack

Chairperson

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

3.12

REQUEST AND AUTHORIZATION TO
AUTHENTICATE, REGISTER AND DELIVER BONDS

Branch Banking and Trust Company
Charleston, West Virginia

Ladies and Gentlemen:

We herewith hand to you, duly executed, the $590,000 Water Revenue Bonds, Series 2010 A (BB and T), in the form of one bond, numbered AR-1, dated May 14, 2010 (the "Bonds"), of Lubeck Public Service District (the "Issuer"), authorized to be issued under and pursuant to a Bond Resolution and a Supplemental Resolution duly adopted by the Issuer on May 13, 2010.

You are hereby requested and authorized to authenticate, register and deliver the Bonds on behalf of the Issuer to Branch Banking and Trust Company.

WITNESS my signature on this 14th day of May, 2010.

LUBECK PUBLIC SERVICE DISTRICT

Chairperson

(SEAL)

Attest:

Secretary

{C1739771.1}

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

3.13

REGISTRAR'S AGREEMENT

THIS REGISTRAR'S AGREEMENT, dated as of the 14th day of May, 2010, by and between LUBECK PUBLIC SERVICE DISTRICT, a public corporation (the "Issuer"), and BRANCH BANKING AND TRUST COMPANY, Charleston, West Virginia (the "Registrar").

WHEREAS, the Issuer has, contemporaneously with the execution hereof, issued and sold its $590,000 Water Revenue Bonds, Series 2010 A (BB and T), dated May 14, 2010 (the "Bonds"), in the form of one bond, in fully registered form, pursuant to a Bond Resolution and a Supplemental Resolution adopted by the Issuer on May 13, 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 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:
Branch Banking and Trust Company
501 Tennessee Avenue
Charleston, WV 25302
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

BRANCH BANKING AND TRUST COMPANY

Authorized Officer

EXHIBIT A

See Bond Resolution (Tab No. 8)

See Supplemental Resolution (Tab No. 9)

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

3.14

CERTIFICATE OF REGISTRATION OF BONDS

BRANCH BANKING AND TRUST COMPANY, Charleston, West Virginia, as Registrar (the "Registrar"), hereby certifies that on the date hereof, the single, fully registered Water Revenue Bonds, Series 2010 A (BB and T), of Lubeck Public Service District (the "Issuer"), dated May 14, 2010, in the principal amount of $590,000, numbered AR-1, was registered as to principal and interest, in the name of "Branch Banking and Trust Company" 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 14th day of May, 2010.

BRANCH BANKING AND TRUST COMPANY,
as Registrar

Russell R Albert III

Authorized Officer

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

3.15

ACCEPTANCE OF APPOINTMENT AS DEPOSITORY BANK

BRANCH BANKING AND TRUST COMPANY, Charleston, West Virginia, hereby accepts appointment as Depository Bank for the Series 2010 A Bonds Construction Trust Fund (the "Fund") in connection with a Bond Resolution and a Supplemental Resolution adopted by Lubeck Public Service District (the "Issuer") on May 13, 2010 (collectively, the "Resolution"), authorizing the issuance of the Issuer's Water Revenue Bonds, Series 2010 A (BB and T), in the aggregate principal amount of $590,000, dated May 14, 2010, and agrees to serve as Depository Bank for the Fund, all as set forth in the Resolution.

WITNESS my signature on this 14th day of May, 2010.

BRANCH BANKING AND TRUST COMPANY

Russell L. Akers Jr.
Authorized Officer

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

3.16

To: **Rusty Akers**
Jim Cox

From: **Ryan White**

Date: **May 14, 2010**

Re: **Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T)**

DISBURSEMENTS TO DISTRICT

Payor:	Branch Banking and Trust Company
Source:	Series 2010 A Bonds Proceeds
Amount:	$587,050 ($590,000 proceeds less BB and T costs)
Date:	May 14, 2010
Form:	Interbank Transfer
Payee:	Lubeck Public Service District
Bank:	Branch Banking and Trust Company
Contact:	Rusty Akers (304) 353-1635
Routing No.:	051503394
Account No.:	0005176133076
Account:	Series 2010 A Bonds Construction Trust Fund

United States Department of Agriculture
Rural Development
West Virginia State Office

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

CONSENT TO ISSUANCE OF PARITY BONDS

The undersigned duly authorized representative of the United States of America, acting through the United States Department of Agriculture, Rural Development, the registered owner of the Prior Bonds, hereinafter defined and described, hereby (i) consents to the issuance of the Water Revenue Bonds, Series 2010 A (BB and T) (the "Series 2010 A Bonds"), in the original aggregate amount not to exceed $600,000, by Lubeck Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2010 A Bonds (collectively, the "Resolution"), on a parity with respect to liens, pledge and source of and security for payment, with the Issuer's Water Revenue Bonds, Series 1997, Water Revenue Bonds, Series 2005 B (United States Department of Agriculture) and Water Revenue Bonds, Series 2005 C (United States Department of Agriculture) (the "Prior Bonds"); (ii) waives any requirements imposed by the Prior Bonds or the resolutions authorizing the Prior Bonds (the "Prior Resolutions"), regarding the issuance of parity bonds which are not met by the Series 2010 A Bonds or the Resolution; and (iii) consents to any amendments made to the Prior Resolutions by the Resolution.

WITNESS my signature on this 13th day of May, 2010.

UNITED STATES OF AMERICA,
UNITED STATES DEPARTMENT OF
AGRICULTURE, RURAL DEVELOPMENT

BOBBY LEWIS
State Director

1550 Earl Core Road • Suite 101 • Morgantown, WV 26505
Phone: (304) 284-4860 OR 1-800-295-8228 • Fax: (304) 284-4893 • TDD: (304) 284-4836
Web: http://www.rurdev.usda.gov/wv

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800)795-3272 (voice) or (202) 720-6382 (TDD).

WEST VIRGINIA
Water Development Authority
Celebrating 34 Years of Service 1974 - 2008

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

CONSENT TO ISSUANCE OF BONDS

In reliance upon a certificate of Philip R. Postlewait, Jr., certified public accountant and the opinion of Jackson Kelly PLLC, bond counsel, stating that the coverage and parity requirements have been met, the undersigned duly authorized representative of the West Virginia Water Development Authority, the registered owner of the Prior Bonds, hereinafter defined and described, hereby consents to the issuance of the Water Revenue Bonds , Series 2010 A (BB and T) (the "Series 2010 A Bonds"), in the original aggregate principal amount of $590,000, by Lubeck Public Service District (the "Issuer"), under the terms of the resolutions authorizing the Series 2010 A Bonds, on a parity with respect to liens, pledge and source of and security for payment with the Issuer's Water Revenue Bonds, Series 1990 A and Water Revenue Bonds, Series 2005 A and senior and prior to the Issuer's Water Revenue Bonds, Series 19999 B(collectively, the "Prior Bonds"). Additionally, the undersigned hereby (i) consents to the issuance of the Series 2010 A Bonds without prepaying the Issuer's Bond Anticipation Notes, Series 2009 A (the "Series 2009 A Notes"); and (ii) waives any requirements imposed by the Series 2009 A Notes or the resolution authorizing the Series 2009 A Notes, regarding the issuance of bonds without the payment of the Series 2009 A Notes in regard to the issuance of the Series 2010 A Bonds.

WITNESS my signature on this 14th day of May, 2010.

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

Carol A. Cummings

Authorized Representative

180 Association Drive, Charleston, WV 25311-1217
phone (304) 558-3612 / fax (304) 558-0299
www.wwda.org

LUBECK PUBLIC SERVICE DISTRICT

Water Revenue Bonds, Series 2010 A
(BB and T)

CERTIFICATE OF PURCHASER

BRANCH BANKING AND TRUST COMPANY, Charlotte, North Carolina (the "Purchaser"), as original purchaser from the Lubeck Public Service District (the "Issuer") of the Bonds (the "Bonds"), hereby certifies on this 14th day of May, 2010, that:

1. We are purchasing the Bonds for our own portfolio and none of the Bonds have been the subject of an initial offering to the public. We do not intend to divide the Bonds purchased by us nor to resell or otherwise dispose of all or any part of the Bonds purchased by us, except as permitted by law on a basis of full disclosure to any subsequent holder of the Bonds and subject to applicable securities laws and regulations thereunder.

2. The weighted average maturity of the Bonds is 8.4868 years.

3. The interest rate on the Bonds is 4.74%.

4. This certificate may be relied upon by the Issuer with respect to its Tax Certificate relating to the Bonds, and by Jackson Kelly PLLC in rendering their tax opinion with respect to the Bonds.

IN WITNESS WHEREOF, BRANCH BANKING AND TRUST COMPANY, has caused this Certificate to be executed by its duly authorized officer, as of the day and year first above written.

BRANCH BANKING AND TRUST COMPANY

By: Russell R. Ashes
Its: Vice President

WEST VIRGINIA MUNICIPAL BOND COMMISSION
Suite 401
1207 Quarrier Street, Charleston, WV 25301
(304) 558-3971

3.20

NEW ISSUE REPORT FORM
Date of Report: May 14, 2010

ISSUE: Lubeck Public Service District Water Revenue Bonds, Series 2010 A (BB and T)
ADDRESS: P.O. Box 700, Washington, WV 26181 COUNTY: Wood

PURPOSE OF ISSUE: New Money ____
Refunding ____ Refunds issue(s) dated: ____

ISSUE DATE: May 14, 2010 CLOSING DATE: May 14, 2010
ISSUE AMOUNT: $590,000 RATE: 4.74%
1st DEBT SERVICE DUE: N/A 1st PRINCIPAL DUE: N/A
1st DEBT SERVICE AMOUNT: $ N/A PAYING AGENT: Branch Banking & Trust Company

BOND COUNSEL: Jackson Kelly PLLC UNDERWRITERS COUNSEL: ____
Contact Person: Samme L. Gee, Esquire Contact Person: ____
Phone: (304) 340-1318 Phone: ____

CLOSING BANK: Branch Banking & Trust Co. ESCROW TRUSTEE: ____
Contact Person: ____
Contact Person: Rusty Akers Phone: ____
Phone: (304) 353-1635

KNOWLEDGEABLE ISSUER CONTACT: OTHER: ____
Contact Person: James Cox Contact Person: ____
Position: Manager Function: ____
Phone: (304) 863-3341 Phone: ____
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: The Bond Commission will only hold the Series 2010 A Bonds Reserve Account to be funded over 10 years. The Issuer will make debt service payments to Branch Banking and Trust Company directly.

FOR MUNICIPAL BOND COMMISSION USE ONLY:
Documents Required: ____
Transfers Required: ____

PHILIP R. POSTLEWAIT, JR.
CERTIFIED PUBLIC ACCOUNTANT
P.O. BOX 1281
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE (304) 422-7444
FACSIMILE (304) 422-4991

May 14, 2010

LUBECK PUBLIC SERVICE DISTRICT
WATER REVENUE BONDS,
SERIES 2010 A (BB and T)

Lubeck Public Service District
Washington, West Virginia

West Virginia Water Development Authority
Charleston, West Virginia

Branch Banking and Trust Company
Charleston, West Virginia

United States Department of Agriculture
Rural Utilities Service
Parkersburg, West Virginia

Ladies and Gentlemen:

I have reviewed the water rates of 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-CN, the projected operating expenses and the anticipated customer usage provided by Burgess & Niple, Inc., the consulting engineer of the Issuer. It is my opinion that such rates are sufficient (i) to provide for all operating expenses of the water facilities of the Issuer (the "System") and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Issuer's Water Revenue Bonds, Series 1990 A; Water Revenue Bonds, Series 1990 B; Water Revenue Bonds, Series 1997; Water Revenue Bonds, Series 2005 A (West Virginia Infrastructure Fund); Water Revenue Bonds, Series 2005 B (United States Department of Agriculture); Water Revenue Bonds, Series 2005 C (United States Department of Agriculture) (collectively, the "Prior Bonds"); and Water Revenue Bonds, Series 2010 A (BB and T) (the "Series 2010 A Bonds").

It is further my opinion that (i) the Net Revenues for the fiscal year following the year in which the Series 2010 A Bonds are to be issued will be at least 115% of the average annual debt service requirements on the Prior Bonds and the Series 2010 A Bonds; and (ii) the Net Revenues actually derived from the System during any 12 consecutive months within the 18 months immediately preceding the date of the actual issuance of the Series 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. The Issuer is current on all payments to the funds and accounts established under the Bond Resolutions authorizing the Prior Bonds, including all reserve accounts.

Very truly yours,

Philip R. Postlewait, Jr., CPA

LUBECK PUBLIC SERVICE DISTRICT 3.22
WATER REVENUE BONDS, SERIES 2010 A
(BB and T)

CERTIFICATE OF CONSULTING ENGINEER

On this 14th day of May, 2010, I, Craig D. Richards, Registered Professional Engineer, West Virginia License No. 10358, of Burgess & Niple Inc., Parkersburg, West Virginia, hereby certify as follows:

1. Burgess & Niple Inc., is engineer for the acquisition and construction of certain extensions, additions, betterments and improvements (the "Project") to the existing public water facilities (the "System") of Lubeck Public Service District (the "Issuer"), to be constructed primarily in Wood County, West Virginia, which acquisition and construction are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. All capitalized words used herein and not defined herein shall have the same meaning set forth in the Bond Resolution adopted by the Issuer on May 13, 2010.

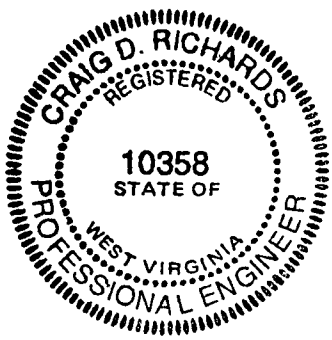
2. The Bonds are being issued for the purposes of (i) paying a portion of the costs of acquisition and construction of the Project; and (ii) paying certain costs of issuance and related costs.

3. To the best of our knowledge, information and belief, (i) within the limits and in accordance with the applicable and governing contractual requirements relating to the Project, the Project will be constructed in general accordance with the approved plans, specifications and designs prepared by Burgess & Niple Inc., and any change orders approved by the Issuer and all necessary governmental bodies; (ii) the Project, as designed, is adequate for its intended purpose and when constructed, in our professional opinion, has an anticipated useful life of at least 15 years, if properly operated and maintained, excepting anticipated replacements due to normal wear and tear; (iii) the Issuer has received bids for the acquisition and construction of the Project which are in an amount and otherwise compatible with the plan of financing set forth in the Schedule B attached hereto as Exhibit A; (iv) the successful bidders have provided the Drug-Free Workplace Affidavit as evidence of the Vendor's compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code; (v) the successful bidders acknowledged receipt of all addenda to the original bid documents; (vi) the successful bids include prices for every item on such bid forms; (vii) the Issuer has

obtained all permits required by the laws of the State of West Virginia and the United States necessary for the acquisition and construction of the Project and the operation of the System; and (viii) the net proceeds of the Bonds, together with all moneys on deposit or to be simultaneously deposited and irrevocably pledged thereto and the proceeds of grants irrevocably committed therefor, are sufficient to pay the costs of acquisition and construction of the Project.

WITNESS our signatures and seals as of the date first written above.

[SEAL]



BURGESS & NIPLE INC.

Craig D. Richards, P.E.
West Virginia License No. 10358

{C1741278.1}

PROJECT FUND AGREEMENT

THIS PROJECT FUND AGREEMENT is dated as of May 14, 2010, and is by and between the **LUBECK PUBLIC SERVICE DISTRICT**, a public service district, public corporation and political subdivision of the State of West Virginia (the "Public Service District") and **BRANCH BANKING AND TRUST COMPANY (GOVERNMENTAL FINANCE)** ("BB&T").

RECITALS

The Public Service District is, simultaneously with the execution and delivery of this Project Fund Agreement, executing and delivering its Water Revenue Bonds, Series 2010 A dated as of May 13, 2010 (the "Bonds") pursuant to the Bond Resolution finally adopted by the Public Service District on May 14, 2010, as supplemented and amended by a Supplemental Resolution adopted on May 13, 2010 (the "Bond Resolution"). The purpose of the Bonds is to provide for BB&T's advance of $590,000 to finance the acquisition, construction and equipping of the Project, as defined in the Bond Resolution. In partial consideration for BB&T's purchase of the Bonds, the Public Service District has agreed to provide for financing proceeds to be deposited and disbursed pursuant to this Project Fund Agreement.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. DEFINITIONS

In this Project Fund Agreement, the term ***"Project Costs"*** means all costs of the design, planning, constructing, acquiring and equipping of the Project as determined in accordance with generally accepted accounting principles and that will not adversely affect the exclusion from gross income for federal income tax purposes of the interest payable by the Public Service District under the Bonds, including (a) sums required to reimburse the Public Service District or its agents for advances made for any such costs, (b) interest during the construction process and for up to six months thereafter, and (c) all costs related to the financing of the Project through the Bonds and all related transactions.

In addition, any capitalized terms used in this Project Fund Agreement and not otherwise defined shall have the meanings assigned thereto in the Bond.

SECTION 2. PROJECT FUND.

2.1. Project Fund. On the date of issuance of the Bond (the "Closing Date"), BB&T will deposit $590,000 into a special account of the Public Service District at BB&T to be designated "Lubeck Public Service District Construction Account" (the "Project Fund"). This account shall be held separate and apart from all other funds of the Public Service District. The Project Fund is the Public Service District's property, but the Public Service District is hereby authorized to withdraw amounts on deposit in the Project Fund only as provided in this Project Fund Agreement and only for application from time to time to the payment of Project Costs. Pending such

application, such amounts shall be subject to a lien and charge in favor of BB&T to secure the Public Service District's obligations under the Bonds.

2.2. Requisitions from Project Fund. The Public Service District may withdraw funds from the Project Fund only after authorization from BB&T. BB&T will disburse funds from the Project Fund only to the Public Service District and only upon its receipt of one or more written requisitions signed by one of the below listed designated Public Service District Representatives substantially in the form of Exhibit A.

Jerry R. Martin, Chairperson

James M. Cox, Manager

The Public Service District may designate additional Representatives to sign requisitions upon written notification to BB&T.

Upon receipt of a requisition from the Public Service District, BB&T will promptly undertake such review of the matters referred to in such requisition as it shall deem appropriate, and will then promptly notify the Public Service District of its approval of the requisition or the reasons for its disapproval.

2.3. Disposition of Project Fund Balance.

(a) ***Upon completion*** -- Promptly after the Project has been completed to the point that it is suitable for carrying out substantially all the purposes it is to serve for the Public Service District, the Public Service District must deliver to BB&T (i) a certificate to such effect signed by a Public Service District Representative and by a licensed architect or engineer reasonably acceptable to BB&T, and (ii) an opinion of counsel to the Public Service District that there are no liens or encumbrances on the Project. BB&T will then withdraw any balance remaining in the Project Fund (and not required to be retained to pay Project Costs incurred but not yet paid) and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(b) ***Upon default*** -- Upon the occurrence of an Event of Default, BB&T may withdraw any balance remaining in the Project Fund and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(c) ***After delay or inactivity*** -- If (i) more than two years have elapsed from the Closing Date or (ii) at least six months has passed from BB&T's most recent receipt of a requisition for Project Costs, then BB&T, upon 30 days' notice from BB&T to the Public Service District, may withdraw any balance remaining in the Project Fund and apply such balance against the outstanding balance of principal and interest payable under the Bond.

(d) ***Application of Project Fund balance*** -- BB&T will apply any amounts paid to it pursuant to this section (i) first against all additional payments then due and payable, (ii) then to interest accrued and unpaid to the prepayment date, and (iii) then to the prepayment of the outstanding principal of the Bond. Such prepayment, however, will not affect any other payment obligation

under the Bonds. BB&T will notify the Public Service District of any withdrawal from the Project Fund made under this Section 2.3, and in the notice will describe its application of the funds withdrawn.

2.4. **Investment**. (a) The Public Service District and BB&T agree that money in the Project Fund will be continuously invested and reinvested in a public funds money rate savings account.

(b) From and after the date that is three years from the Closing Date, the Public Service District will not purchase or hold any investment which has a "yield," as determined under the Code, in excess of the "yield" on the Public Service District's obligations under the Bonds, unless the Public Service District has supplied BB&T with a Bond Counsel Opinion to the effect that such investment will not adversely affect the exclusion from gross income for federal income tax purposes to which the interest components of payments under the Bond would otherwise be entitled.

(c) Investment obligations acquired with money in the Project Fund shall be deemed at all times to be part of the Project Fund. The interest accruing thereon and any profit or loss realized upon the disposition or maturity of any such investment shall be credited to or charged against the Project Fund.

(d) All earnings on moneys in the Project Fund must be used for Project Costs.

SECTION 3. MISCELLANEOUS.

3.1. **Notices**. Any notice or other communication required or contemplated by this Project Fund Agreement shall be deemed to be delivered if in writing, addressed as provided below and if (a) actually received by such addressee, or (b) in the case of mailing, when indicated to have been delivered by a signed receipt returned by the United States Postal Service after deposit in the United States mails, postage and registry fees prepaid, and clearly directed to be transmitted as registered or certified mail:

(i) If intended for the Public Service District, addressed to it at the following address: Lubeck Public Service District, P.O. Box 700, Washington, West Virginia 26181, Attention: Manager.

(ii) If intended for BB&T, addressed to it at the following address: BB&T Governmental Finance, Attention: Account Administration/Municipal – Project Fund Agreement Notice, 5130 Parkway Plaza Boulevard, Building 9, Charlotte, North Carolina 28217.

Any party may designate a different or alternate address for notices by notice given under this Project Fund Agreement.

3.2. **Survival of Covenants and Representations.** All covenants, representations and warranties made by the Public Service District in this Project Fund Agreement

and in any certificates delivered pursuant to this Project Fund Agreement shall survive the delivery of this Project Fund Agreement.

3.3. **Choice of Law.** The parties intend that West Virginia law shall govern this Project Fund Agreement.

3.4. **Amendments.** This Project Fund Agreement may not be modified or amended unless such amendment is in writing and signed by BB&T or the Public Service District.

3.5. **No Third-Party Beneficiaries.** There are no parties intended to be or which shall be deemed to be third-party beneficiaries of this Project Fund Agreement.

3.6. **Successors and Assigns.** All of the covenants and conditions of this Project Fund Agreement shall be binding upon and inure to the benefit of the parties to this Project Fund Agreement and their respective successors and assigns.

3.7. **Severability.** If any court of competent jurisdiction shall hold any provision of this Project Fund Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Project Fund Agreement.

3.8. **Counterparts.** This Project Fund Agreement may be executed in any number of counterparts, including separate counterparts, each executed counterpart constituting an original but all together only one agreement.

3.9. **Termination.** Except as otherwise provided in this Project Fund Agreement, this Project Fund Agreement shall cease and terminate upon payment of all funds (including investment proceeds) from the Project Fund.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, each of the parties has caused this Project Fund Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

LUBECK PUBLIC SERVICE DISTRICT

By: _____
Its: Chairperson

BRANCH BANKING AND TRUST COMPANY

By: Russell L. Akers III
Its: vice president

[Project Fund Agreement dated as of May 14, 2010]

EXHIBIT A

PROJECT FUND REQUISITION

[To Be Prepared on Public Service District's Letterhead for Submission]

[Date] _____

Mary Comstock
Funding Specialist
BB&T Governmental Finance
5130 Parkway Plaza Boulevard, Building 9
Charlotte, North Carolina 28217

RE: Request for disbursement of funds from the Project Fund related to Contract No. _____ with _____, dated _____, 20___.

Dear Ms. McDermott,

Pursuant to the terms and conditions of the Project Fund Agreement dated as of _____, 20__, the _____ (the "Public Service District"), requests the disbursement of funds from the Project Fund established under the Project Fund Agreement for the following Project Costs:

This is requisition number ____ from the Project Fund.

Amount:

Vendor:

Vendor Address:

Vendor Federal Tax Number:

Applicable Vendor Invoices:

Payee *(if different from vendor; attach explanation)*

Project Description:

Location of Project:

The _____ makes this requisition pursuant to the following representations:

1. The Public Service District has appropriated in its current fiscal year funds sufficient to pay the payments and any estimated additional payments due in the current fiscal year with respect to the Bonds delivered in connection with this transaction.

2. The purpose of this disbursement is for partial payment on the project provided for under the Contract referenced above.

3. The requested disbursement has not been subject to any previous requisition.

4. No notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable herein to any of the persons, firms or corporations named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of this requisition.

5. This requisition contains no items representing payment on account of any percentage entitled to be retained on the date of this requisition.

6. No Event of Default is continuing under the Bonds, and no event or condition is existing which, with notice or lapse of time or both, would become an Event of Default.

7. The Public Service District will execute any Uniform Commercial Code financing statements with respect to this portion of the Project that BB&T may request to evidence its security interest.

8. The Public Service District has in place insurance on this portion of the Project that complies with the insurance provisions of the above-referenced Contract.

Attached is evidence that the amounts shown in this requisition are properly payable at this time, such as bills, receipts, invoices, architects' payment certifications or other appropriate documents.

_____

By: ***[Exhibit Form Only – Do Not Sign]***

Title:_____