

CLOSING MEMORANDUM
LUBECK PUBLIC SERVICE DISTRICT WATER SYSTEM
REVENUE BONDS, SERIES A AND SERIES B

Closing date: April 2, 1990, 10:30 a.m.

Place: West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia

Parties:

Issuer
Lubeck Public Service District, Wood County, West
Virginia

Purchaser:
West Virginia Water Development Authority

Paying Agent:
West Virginia Municipal Bond Commission

Registrar:
One Valley Bank, National Association

Purchaser's Counsel:
Jackson & Kelly

Bond Counsel:
Davis, Bailey, Pfalzgraf & Hall

Counsel for the Issuer:
Ronning & Brown

Accountant:
Philip R. Postlewait, Jr.

Engineer:
Burgess & Niple, Limited

Summary and Action Taken Prior to the Closing

By Resolution adopted March 28, 1990, as supplemented by Supplemental Resolution adopted March 28, 1990, the Issuer authorized the issuance and sale of the above referenced Bonds (the "Series A Bond and the Series B Bond"). The proceeds of the Series A Bond and the Series B Bond are to be applied to

the acquisition and construction of a water treatment and distribution facility in the Issuer, the funding of Bond Reserve Accounts, a Bonds Capitalized Interest Account, and the payment of certain costs in connection therewith.

Closing Documents

Nine copies of each of the following documents, originally executed except as indicated below, will be made available by the several respective parties at the Closing, and transcripts thereof will be prepared, and one transcript will be given to each of the following: the Issuer, Counsel for the Issuer, the Purchaser, Counsel for the Purchaser, Bond Counsel, the Registrar, the Paying Agent, the Accountant and the Engineer. Certain documents may be executed prior to the Closing, with the understanding that no document will be deemed delivered until the parties agree that all documents are delivered.

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|------|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DBPH | 1. | Certified copy of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended |
| DBPH | 2. | Certified copy of the Order of the County Commission of Wood County, West Virginia, creating Lubeck Public Service District |
| DBPH | 3. | Certified copies of the Orders of the County Commission of Wood County, West Virginia, adjusting and establishing the boundaries of Lubeck Public Service District |
| DBPH | 4. | Certified copy of Lubeck Public Service District Rules and Procedures |
| DBPH | 5. | Certified copies of the Orders appointing the members of the Public Service Board of the Lubeck Public Service District and their Oaths of Office |
| R&B | 6. | Certified copy of the Minutes of Lubeck Public Service Board's Annual Organizational Meeting on January 11, 1990 |
| DBPH | 7. | Certified copy of the Resolution adopted by the Public Service Board of the Lubeck Public Service District authorizing the District's Water System Revenue Bonds, Series A and Series B. |
| DBPH | 8. | Certified copy of the First Supplemental Resolution passed by the Public Service Board of the Lubeck Public Service District setting forth the terms of the Bonds, and approving the Registrar's Agreement |

9. Loan Agreement and Application
10. Supplemental Loan Agreement
- DBPH 11. Certified copy of the Minutes of the meeting of the Public Service Board of Lubeck Public Service District adopting the Bond Resolution and Supplemental Resolution on March 28, 1990
- DBPH 12. General Certificate of District and Attorney
- DBPH 13. Registrar's Agreement
- DBPH 14. Registrar's Certificate
- DBPH 15. Public Service Commission Order
- DBPH 16. Engineer's Certificate
- PP 17. Certificate of Certified Public Accountant
- DBPH 18. Arbitrage Certificate
- DBPH 19. IRS Information Return (Form 8038G)
- DBPH 20. Opinion of Davis, Bailey, Pfalzgraf & Hall as to the Series A Bond
- DBPH 21. Opinion of Davis, Bailey, Pfalzgraf & Hall as to the Series B Bond
- DBPH 22. Arbitrage Opinion of Davis, Bailey, Pfalzgraf & Hall
- R&B 23. Opinion of Ronning & Brown, Counsel to Issuer
- DBPH 24. Municipal Bond Commission New Issue Report
- DBPH 25. Assignment Separate from Bond
- DBPH 26. Certificate of Registration of Bonds
- DBPH 27. Cross-Receipt for Bonds and Bond Proceeds
- DBPH 28. Request and Authorization to Authenticate and Deliver Bonds

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CERTIFICATE

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

THIS IS A TRUE COPY OF CHAPTER 16, ARTICLE 13A OF THE WEST VIRGINIA CODE AND CHAPTER 16, ARTICLE 13A OF THE 1989 CUMULATIVE 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 this

Twenty-fifth day of
September 1989



Ken Hechler
Secretary of State

amended, may be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the sanitary board having charge of the construction and operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided. Provided, however, that if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. If any rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten percent, and a reasonable attorney's fee, may be recovered by the sanitary board of such municipal corporation in a civil action in the name of the municipality. Any municipal corporation exercising the powers given herein shall have authority to construct, acquire, improve, equip, operate, repair and maintain any plants, machinery, or works necessary to comply with such order of the state water resources board, and the authority provided herein to establish, maintain and collect rates or charges shall be construed as a further additional and alternative method of financing such works and matters, and shall be independent of any other provision of this article insofar as such article provides for or requires the issuance of revenue bonds or the imposition of rates and charges in connection with such bonds. Provided, however, 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 state water resources board, and the rights, powers, and duties of such municipal corporation and the respective officers and departments thereof, including the sanitary board, shall be governed by the provisions of this article. (1965, c. 135, 1967, c. 105.)

Applied in *City of Morgantown v. Town of Shar City*, 166 W. Va. 529, 195 S.E.2d 186 (1973).

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

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

Quoted in *West Virginia Water Serv. Co. v. Cunningham*, 143 W. Va. 1, 98 S.E.2d 891 (1967).

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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

Constitutionality of article. — The act from which this article was derived, authorizing the creation of public service districts by the county courts of this State, defining the powers and duties of the governing boards of such districts in the acquisition, construction, maintenance, operation, improvement and extension of property supplying water and sewerage services, and authorizing the issuance of bonds of such districts payable solely from revenue to be derived from the operation of such properties, does not violate any provision of the Constitution of this State or the Fourteenth Amendment to the Constitution of the United States. State

ex rel. *McMillen v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1965).
 The title to Acta 1965, c. 147, is sufficient to give a fair and reasonable index to all of the purposes of the act. *State ex rel. McMillen v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1965).
 And purpose. — The purpose of this article is to provide water and sewerage facilities in unincorporated districts. *State ex rel. McMillen v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1965).
 Public service districts are "public utilities." 50 Op. Att'y Gen. 447 (1963).

Hence, they are required to pay a special license fee pursuant to § 24-3-6 for support of the public service commission. 50 Op. Atty. Gen. 447 (1963). Cited in Berkeley County Pub. Serv. Dist. v. Vitro Corp. of Am., 152 W. Va. 252, 162 S.E.2d 189 (1968).

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

Any territory constituting the whole or any part of one or more counties in the State so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of properties supplying water or sewerage services, or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words "public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities," (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas for the public, for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1953, c. 147; 1980, c. 60.)

Purpose found in order creating district and in hearings. — The purpose for the creation of a public service district may be ascertained by a review of the order establishing the district and the history behind the creation of the district (the notice of hearing and hearings held prior to the creation of the district). Op. Atty. Gen., July 8, 1976. A public service district, which was created only for the purposes of furnishing water services, has no power to condemn real estate for sewerage facilities. Canyon Pub. Serv. Dist. v. Taas Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973). Cited in State ex rel. Appalachian Power Co. v. Gainer, 149 W. Va. 740, 143 S.E.2d 351 (1965); Shobe v. Latimer, 263 S.E.2d 54 (W. Va. 1979).

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

The county commission of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed

district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties. Provided, that the same territory shall not be included within the boundaries of more than one public service district except where such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof. Provided, however, that no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the governing body of such city, incorporated town or other municipal corporation consenting.

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

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying the county commission and clerk thereof of each of the other counties into which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three § 59-3-1 et seq., chapter fifty-nine of this Code, and the publication area for such publication shall be each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid

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

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. If the county commission determines that the construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by such public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create such public service district and such order is conclusive and final in that regard. If the commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area or that the creation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create the district as amended. If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by expansion, merger or other means, it shall refuse to enter an order creating the proposed district. Provided, that prior to refusing to enter such order, evidence must be presented to the satisfaction of the county commission that such expansion, merger or other procedure necessary to provide service to the area of the proposed district will be forthcoming. Provided, however, that no expansion of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission to be inadequate to provide such expanded service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating the district. Provided, that if at such hearing written protest is filed by thirty percent or more of the qualified voters registered and residing within said district, then the county commission shall not take any further action in creating such district unless the creation of such district is approved by a majority vote of the qualified registered voters voting at a referendum to be called by the county commission for such purpose. Such referendum shall be called and held in the manner provided in the general election laws of the State of West Virginia applicable thereto and the funds therefor shall be supplied from any county funds available for such purpose or from funds supplied from the persons who petitioned for the creation of such district. If a majority of the qualified regis-

tered voters participating in the referendum vote against the creation of the district, then such district shall not be created. If, however, a majority of the qualified registered voters participating in such referendum vote in favor of the creation of such district, then the county commission shall duly enter its order creating such district.

After the creation of such district the county commission may, if in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or establish or consolidate two or more such districts. 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, 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 protest shall apply with like effect as if a district were being created. Provided, however, that no expansion of a public service district may occur if the physical facilities of the public service district are determined by the appropriate county commission to be inadequate to provide such expanded service. The commission shall at all times attempt to bring about the expansion or merger of existing public service districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district. Provided further, that the applicable provisions pertaining to referendum shall not apply if the results of a referendum could adversely affect the existing financial indebtedness of the district. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article. A list of all districts and their current board members shall be filed by the county commission with the secretary of state. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124.)

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

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

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

Voters may not force referendum as to continuing or abolishing district. — There is no authority for voters, by written protest or

otherwise, to force a referendum upon the issue of whether or not a created public service district should be continued or abolished. 52 Op. Atty. Gen. 33 (1966).

Certain provisions mandatory, but provisions for setting time of hearing and giving notice directory. — The provisions of this section relating to the filing of the petition or motion of the county court (now county commission), the description of the territory to be embraced and like provisions are mandatory, but the use of the word "shall" in relation to the requirements for the posting and publication of notice and the time of setting and hearing are directory and require only substantial compliance. Canyon Pub. Serv. Dist. v. Texas Coal Co., 156 W. Va. 606, 185 S.E.2d 647 (1973).

A county court (now county commission) has authority to add sewerage services to the facilities of a public service district which was created for the purpose of furnishing water

services, under appropriate proceedings. Canyon Pub. Serv. Dist. v. Teas Coal Co., 156 W. Va. 606, 195 S.E.2d 647 (1973).

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

enlarging or reducing a public service district, which such action and order are subject to a hearing requiring proper notice, and a formal protest and public referendum depending upon the number of qualified voters who protest such action. Op. Atty. Gen., Nov. 13, 1976.

"Shall apply with like effect," etc. — Because a protest against creation triggers a referendum, the language "shall apply with like effect as if a district were being created" can mean only that a protest against enlargement or reduction likewise triggers a referendum. Op. Atty. Gen., Nov. 13, 1976.

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

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

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district who have successfully completed a training program to be established and administered by the public service commission in conjunction with the department of natural resources and the department of health. 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 shall be

entitled to appoint one member of the board, and each such city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed shall thereby 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 shall equal or exceed three, then no further members shall be appointed to the board and the members shall be and constitute the board of the district.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district, which three members shall become members of and constitute the board of the district without any further act or proceedings.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three, and the additional member or members shall thereupon become members of the board; 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, shall be and constitute 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, shall be conclusively considered to be the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

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

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

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chairman 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 chairman, 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. (1953, c. 147; 1965, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166.)

Effect of amendment of 1983. — The amendment, effective March 11, 1983, deleted "such" and substituted "the" for "such" at various places throughout the section; in the first sentence of the third paragraph inserted "having a population of more than three thousand but less than eighteen thousand"; near the beginning of the fourth paragraph inserted "having a population of more than three thousand"; in the sixth paragraph substituted "considered" for "deemed"; and in the first sentence of the next to the last paragraph substituted "the first day of January" for "January one".

Exemptions. — Public service districts of West Virginia are political subdivisions of the State, and as such they are specifically, by express statute, exempted from the duty of

paying registration fees (provided by § 17A-10-8), the privilege tax (imposed by § 17A-3-4), and the certificate of title charge (required by § 17A-3-4; 49 Op. Atty. Gen. 131 (1961)).
Furnishing water to municipal corporation in another state. — A public service district may furnish water wholesale in bulk quantities to a municipal corporation in another state. 51 Op. Atty. Gen. 739 (1966).
Authority of districts. — Public service districts are agents of the county commission by which they were created, having no authority other than that expressly set out in this article. Op. Atty. Gen., July 8, 1976.
Furnishing water to border residents in neighboring state. — See Op. Atty. Gen., June 26, 1975.

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

The county commission or any other appointive body creating or establishing a public service district under the provisions of this article may remove 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 prescribed by law or for any misconduct in office, or upon written petition signed by twenty-five percent of the registered voters who reside within the limits of such proposed public service district. Provided, that such appointee shall be removed only after a full hearing of any complaint presented against him and after a ten-day notice of such hearing. (1963, c. 75; 1971, c. 72; 1981, c. 124.)

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

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

§ 16-13A-5. General manager of board.

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

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

The board of any public service district which purchases water service from a municipal water 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 system or public service district from which such water service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124.)

§ 16-13A-6. Employees of board.

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

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district and shall have power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provisions of article three [§ 59-3-1 et seq.], chapter fifty-nine of this Code, and the publication area for such publication shall be the district. The publication shall not be less than ten days prior to making of any such contract. Any obligations incurred of any kind of character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 105; 1981, c. 124; 1982, c. 24.)

§ 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 territorial boundaries of the district. Provided, that if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other municipal corporations then outstanding and in accordance with the ordinance, resolution or other proceedings which authorize the issuance of such revenue bonds or obligations.

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

For the purpose of acquiring any public service properties or lands, rights or easements deemed necessary or incidental for the purposes of the district, each such district has the right of eminent domain to the same extent and to be exercised in the same manner as now or hereafter provided by law for such right of eminent domain by cities, incorporated towns and other municipal corporations. Provided, that such board may not acquire all or any substantial part of a privately owned waterworks system unless and until authorized so to do by the public service commission of West Virginia, and that this section shall not be construed to authorize any district to acquire through condemnation proceedings either in whole or substantial part an existing privately

owned waterworks plant or system or gas facilities located in or furnishing water or gas service within such district or extensions made or to be made by it in territory contiguous to such existing plant or system, nor may any such board construct or extend its public service properties to supply its services into areas served by or in competition with existing waterworks or gas facilities or extensions made or to be made in territory contiguous to such existing plant or system by the owner thereof. (1953, c. 147; 1980, c. 60; 1981, c. 124.)

District may exercise control over sewers where ownership is unknown in public service districts by this section is valid, unincorporated areas. 45 Op. Atty. Gen. 506 (1953).
State ex rel. McMillion v. Stahl, 141 W. Va. 233, 98 S.E.2d 693 (1955).

Valid grant of power of eminent domain.

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

The board may make, enact and enforce all needful rules and regulations in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises the schedule of charges may be billed as a single amount for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board may, under reasonable rules and regulations 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.

In the event that any city, incorporated town or other municipal corporation included within the district owns and operates separately either water facilities or gas facilities, and the district owns and operates within such city, incorporated town or other municipal corporation the other kind of facilities, either water or gas facilities, as the case may be, then the district and such city, incorporated town or other municipal corporation may covenant and contract with each other to shut off and discontinue the supplying of the kind of facilities furnished by the district or such city, incorporated town or other municipal corporation, as the case may be, for the nonpayment of fees and charges for the other kind of facilities furnished by the district or city, incorporated town or other municipal corporation, as the case may be.

Any district furnishing sewer facilities within the district may require all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the department of health from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the department of health and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and residents of such districts and of the State.

If the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwelling plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the department of health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission.

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

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of

equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. When such fees, rates and charges have been delinquent for thirty days, the district may forthwith foreclose the lien on the premises served in the same manner now provided in the law of the State of West Virginia for the foreclosure of mortgages on real property.

Anything in this section to the contrary notwithstanding, any establishment, as defined in section two [§ 20-5A-2], article five-A, chapter twenty, now or hereafter operating its own sewage disposal system, pursuant to a permit issued by the department of natural resources, as prescribed by section seven [§ 20-5A-7], article five-A, chapter twenty of this Code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124.)

Lien not a deprivation of property without due process. — The provision that delinquent fixed rates and charges for services rendered by a public service district shall be a lien on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes, does not deprive the owners of their property without due process of law. *State ex rel. McMillion v. Stahl*, 141 W. Va. 233, 89 S.E.2d 693 (1965).

Regulating connections with sewer facilities. — The boards of public service districts have no authority to require potential

users who live outside the boundaries of the districts, but within the 10-mile limit, to hook onto the district's sewer facilities. *Op. Atty. Gen.*, July 8, 1976.

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

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

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

§ 16-13A-10. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment

schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board. (1953, c. 147; 1981, c. 124.)

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts 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 by an independent public accountant. A copy of the audit shall be forwarded within thirty days of completion 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, and shall at all times have such records readily available for public inspection. At the end of his term of office, the treasurer of each public service district shall promptly deliver all financial records of the public service district to his successor in office. Any treasurer of a public service district who knowingly or willfully violates any provision of this section is guilty of a misdemeanor and shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned in the county jail not more than ten days, or both. (1953, c. 147; 1981, c. 124.)

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

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

§ 16-13A-13. Revenue bonds.

For constructing or acquiring any public service properties for the authorized purposes and 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 twelve 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 antedated 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 negotiable, 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 fifteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized. (1953, c. 147, 1970, cc. 11, 12, 1970, 1st Ex. Sess., c. 2; 1980, c. 33; 1987, 1st Ex. Sess., c. 2.)

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

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

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

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

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

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

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

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

The board of any such district shall have power to insert enforceable provisions in any resolution authorizing the issuance of bonds relating to the collection, custody and application of revenues of the district from the operation of the public service properties under its control and to the enforcement of the

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

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2, appearing in Vol. 1A. As to receivers, see Rule 66. As to application of rules to writ of mandamus, see Rule 81(e)(5). As to effect of rules on jurisdiction and venue, see Rule 82.

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

§ 16-13A-18. Operating contracts.

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

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

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

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

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district shall be ratably distributed to any persons who have made contributions in aid of construction of such water 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 system is located to be placed in the general funds of such county commission. (1963, c. 75, 1981, c. 124.)

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

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

Rules of Civil Procedure. — As to abolition of the procedural distinctions between law and equity, see Rule 2, appearing in Vol. 1A. The provision granting to bondholders a

statutory mortgage lien is valid. State ex rel. McMillon v. Stahl, 141 W. Va. 233, 89 S.E.2d 683 (1955).

§ 16-13A-20. Refunding revenue bonds.

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

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

Combination of two outstanding bond issues into one refunding bond issue may well be restricted by the use of the singular. Op. Atty. Gen., July 8, 1976.

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

This article shall constitute 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, shall be 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 state department of health and the state water resources board shall remain unaffected by this article. Every district organized under this article is declared to be 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 shall be exempt from taxation by the State of West Virginia, and the other taxing bodies of the State: Provided, however, that the board of any such district may use and apply any of its available revenues and income for the payment of what such board determines to be tax or license fee equivalents to any local taxing body and in any proceedings for the issuance of bonds of such district may reserve the right to annually pay a fixed or computable sum to such taxing bodies as such tax or license fee equivalent. (1953, c. 147.)

Tax exemption constitutional. — The tax exemption granted to the property, income, and bonds of the district does not violate W. Va. Const., art. X, § 1. State ex rel. McKillion v. Stahl, 141 W. Va. 233, 89 S.E.2d 693 (1955). Applied in Rhodes v. Melden, Pub. Serv. Dist., 301 S.E.2d 601 (W. Va. 1983).

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

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

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

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

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

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

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

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. (1968, c. 14, § 1980, c. 60, 1981, c. 124.)

§ 16-13A-25. Borrowing and bond issuance — Procedure.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money or issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article without the prior consent and approval of the public service commission. Notwithstanding any other provision of this Code, when a public service district is seeking to borrow money for the acquisition or construction of public service properties, or contract to issue revenue bonds to commence the construction or acquisition of public service properties, the public service district shall publish a Class II legal advertisement in a newspaper of general circulation within the district, which legal advertisement shall state:

- (1) The amount of money to be borrowed, or the amount of revenue bonds to be issued;
- (2) The interest rate and terms of the loan or bonds;
- (3) The public service properties to be acquired or constructed, and the cost of same;

- (4) The anticipated rates which will be charged by the district; and
- (5) The fact that a form is available in the county clerk's office and at the office of the public service district for residents of that portion of the public service district which will be served by the public service property to be acquired or constructed to sign indicating their opposition to the public service district borrowing money or issuing revenue bonds. In addition, the public service district shall cause to be posted in conspicuous places throughout that portion of the public service district which will be served by the public service property to be acquired or constructed signs measuring not less than eight and one-half inches in width and eleven inches in length which include the same information as required in the Class II legal advertisement.

For a period of thirty days beginning with the first publication of the legal advertisement, the county clerk shall maintain within the courthouse of the county containing the public service district and the public service district shall maintain at its office a form provided by the public service district to be signed by any registered voter who is a resident of that portion of the public service district which will be served by the public service property to be acquired or constructed, and who is opposed to the public service district borrowing money or issuing revenue bonds upon the terms or for the purpose stated in the legal advertisement. The form available in the county clerk's office and in the office of the public service district shall state:

- (1) The amount of money to be borrowed, or the amount of revenue bonds to be issued;
 - (2) The interest rate and terms of the loan or bonds;
 - (3) The public service properties to be acquired or constructed, and the cost of same; and
 - (4) The anticipated rates which will be charged by the district. The form shall be arranged in a manner that permits every registered voter who is opposed to sign his name and list his address. The commission shall not grant its consent and approval if more than fifty percent of the registered voters who are residents of that portion of the public service district which will be served by the public service property to be acquired or constructed sign the form indicating their opposition. The commission may grant its consent and approval subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this Code, or may withhold such consent and approval for the protection of the public interest.
- In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. If written disapproval has not been given by the commission within sixty days after receipt of the application by the commission, it may be deemed by the applicant that approval has in fact been given. (1969, 1st Ex. Sess., c. 6, 1981, c. 124.)

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

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withstanding 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.

In no event shall any such loan or temporary advance be a general obligation of the municipality and such loans or temporary advances, including the interest thereon, shall be paid solely from the sources specified in this section. (1949, c. 93; 1961, c. 107; 1980, c. 59; 1981, 1st Ex. Sess., c. 2; 1986, c. 118.)

Effect of amendment of 1986. — The amendment added the last sentence in the first paragraph.

§ 16-13-23a. Additional powers of municipality upon receipt of order to cease pollution.

Textbooks. — Administrative Law in West Virginia (Neely), § 3.07.

ARTICLE 13A.

PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

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

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

§ 16-13A-1. Legislative findings.

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

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

Effect of amendment of 1986. — The amendment rewrote the section.

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

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

- (a) To study, modify, approve, deny or amend the plans created under section one-b (§ 16-13A-1b) of this article for consolidation or merger of public service districts and their facilities, personnel or administration;
- (b) To petition the appropriate circuit court for the removal of a public service district board member or members; and

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

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

Each county commission shall conduct a study of all public service districts which have their principal offices within its county and shall develop a plan relating to the creation, consolidation, merger, expansion or dissolution of such districts or the consolidation or merger of management and administrative services and personnel and shall present such plan to the public service commission for approval, disapproval, or modification. Provided, That within ninety days of the effective date of this section [June 6, 1986] 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 shall have 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 department of health and the department of natural resources 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 shall have 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 and regulations promulgated by the public service commission and such order shall be implemented by the county commission. (1986, c. 81.)

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

Any territory constituting the whole or any part of one or more counties in the state so situated that the construction or acquisition by purchase or otherwise and the maintenance, operation, improvement and extension of, properties supplying water or sewerage services or gas distribution services or all of these within such territory, will be conducive to the preservation of the public health, comfort and convenience of such area, may be constituted a public service district under and in the manner provided by this article. The words

"public service properties," when used in this article, shall mean and include any facility used or to be used for or in connection with (1) the diversion, development, pumping, impounding, treatment, storage, distribution or furnishing of water to or for the public for industrial, public, private or other uses (herein sometimes referred to as "water facilities"); (2) the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes (herein sometimes referred to as "sewer facilities" or "landfills") or (3) the distribution or the furnishing of natural gas to the public for industrial, public, private or other uses (herein sometimes referred to as "gas utilities or gas system"). (1986, c. 81.)

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

The county commission of any county may, on its own motion by order duly adopted or upon the recommendation of the public service commission, propose the creation of such public service district within such county, setting forth in such order a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district, or twenty-five percent of the registered voters who reside within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district. Provided, That after the effective date of this section [June 6, 1986], no new public service district shall be created under this section without the written consent and approval of the public service commission, which approval and consent shall be in accordance with rules and regulations promulgated by the public service commission and may only be requested after consent is given by the appropriate county commission or commissions pursuant to this section. Any territory may be included regardless of whether or not such territory includes one or more cities, incorporated towns or other municipal corporations which own and operate any public service properties and regardless of whether or not it includes one or more cities, incorporated towns or other municipal corporations being served by privately owned public service properties. Provided, however, That the same territory shall not be included within the boundaries of more than one public service district except where such territory or part thereof is included within the boundaries of a separate public service district organized to supply water, sewerage services or gas facilities not being furnished within such territory or part thereof. Provided further, That no city, incorporated town or other municipal corporation shall be included within the boundaries of such proposed district except upon the adoption of a resolution of the gov-

erning body of such city, incorporated town or other municipal corporation consenting.

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

When the county commission of any county enters an order on its own motion proposing the creation of a public service district, as aforesaid, or when a petition for such creation is presented, as aforesaid, the county commission shall at the same session fix a date of hearing in such county on the creation of the proposed public service district, which date so fixed shall be not more than forty days nor less than twenty days from the date of such action. If the territory proposed to be included is situated in more than one county, the county commission, when fixing a date of hearing, shall provide for notifying which the territory extends of the date so fixed. The clerk of the county commission of each county in which any territory in the proposed public service district is located shall cause notice of such hearing and the time and place thereof, and setting forth a description of all of the territory proposed to be included therein to be given by publication as a Class I legal advertisement in compliance with the provisions of article three (§ 59-3-1 et seq.), chapter fifty-nine of this code, and the publication area for such publication shall be by publication in each city, incorporated town or municipal corporation if available in each county in which any territory in the proposed public service district is located. The publication shall be at least ten days prior to such hearing. In all cases where proceedings for the creation of such public service districts are initiated by petition as aforesaid, the person filing the petition shall advance or satisfactorily indemnify the payment of the cost and expenses of publishing the hearing notice, and otherwise the costs and expenses of such notice shall be paid in the first instance by the county commission out of contingent funds or any other funds available or made available for that purpose. In addition to the notice required herein to be published, there shall also be posted in at least five conspicuous places in the proposed public service district, a notice containing the same information as is contained in the published notice. The posted notices shall be posted not less than ten days before the hearing.

All persons residing in or owning or having any interest in property in such proposed public service district shall have an opportunity to be heard for and against its creation. At such hearing the county commission before which the hearing is conducted shall consider and determine the feasibility of the creation of the proposed district. If the county commission determines that the

construction or acquisition by purchase or otherwise and maintenance, operation, improvement and extension of public service properties by such public service district will be conducive to the preservation of public health, comfort and convenience of such area, the county commission shall by order create such public service district. If the county commission, after due consideration, determines that the proposed district will not be conducive to the preservation of public health, comfort or convenience of such area or that the creation of the proposed district as set forth and described in the petition or order is not feasible, it may refuse to enter an order creating the district or it may enter an order amending the description of the proposed district and create the district as amended. If the county commission determines that any other public service district or districts can adequately serve the area of the proposed public service district, whether by expansion, merger or other means, it shall refuse to enter an order creating the proposed district and shall enter an order expanding, merging or consolidating the area with an existing public service district, in accordance with rules and regulations adopted by the public service commission for such purpose: Provided, That no expansion of a public service district may occur if the present or proposed physical facilities of the public service district are determined by the appropriate county commission or the public service commission to be inadequate to provide such expanded service. The clerk of the county commission of each county into which any part of such district extends shall retain in his office an authentic copy of the order creating, expanding, merging or consolidating the district: Provided, however, That within ten days after the entry of an order creating, expanding or merging or consolidating a district, such order must be filed for review and approval by the public service commission. The public service commission shall provide a hearing in the affected county on the matter and may approve, reject or modify the order of the county commission if it finds it is in the best interests of the public to do so. The public service commission shall adopt rules and regulations relating to such filings and the approval, disapproval or modification of county commission orders for creating, expanding, merging or consolidating districts.

The county commission may, in its discretion it deems it necessary, feasible and proper, enlarge the district to include additional areas, reduce the area of the district, where facilities, equipment, service or materials have not been extended, or dissolve the district if inactive or establish or consolidate two or more such districts. If consolidation of districts is not feasible, the county commission may consolidate and centralize management and administration of districts within its county or multi-county area to achieve efficiency of operations: Provided, That where the county commission determines on its own motion by order entered of record, or there is a petition to enlarge the district, merge and consolidate districts, or the management and administration thereof, reduce the area of the district or dissolve the district if inactive, all of the applicable provisions of this article providing for hearing, notice of hearing and approval by the public service commission shall apply with like effect as if a district were being created. The commission shall at all times attempt to bring about the expansion or merger of existing public service

districts in order to provide increased services and to eliminate the need for creation of new public service districts in those areas which are not currently serviced by a public service district. Provided, however, That where two or more public service districts are consolidated pursuant to this section, any rate differentials may continue for the period of bonded indebtedness incurred prior to consolidation. The districts may not enter into any agreement, contract or covenant that infringes upon, impairs, abridges or usurps the duties, rights or powers of the county commission, as set forth in this article, or conflicts with any provision of this article. A list of all districts and their current board members shall be filed by the county commission with the secretary of state and the public service commission by the first day of July of each year. (1953, c. 147; 1965, c. 134; 1967, c. 105; 1975, c. 140; 1980, c. 60; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrites the section. **Merger or consolidation of districts.** — This section authorizes either merger or consolidation of public service districts. Op. Atty Gen., June 12, 1986, No. 9. Cited in *Slate v. Neary*, 366 S.E.2d 395 (W. Va. 1987).

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

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

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members, who shall be persons residing within the district who possess certain educational, business or work experience which will be conducive to operating a public service

district. Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the public service commission in conjunction with the department of natural resources and the department of health. Board members shall not be or become peculiarly interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district, nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after such board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but not less than eighteen thousand shall be entitled to appoint one member of the board, and each such city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the board for each additional eighteen thousand population. The members of the board representing such cities, incorporated towns or other municipal corporations shall be residents thereof and shall be appointed by a resolution of the governing bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk of the county commission which entered the order creating the district, the persons so appointed shall thereby 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 shall equal or exceed three, then no further members shall be appointed to the board and the members shall be and constitute the board of the district.

If no city, incorporated town or other municipal corporation having a population of more than three thousand is included within the district, then the county commission which entered the order creating the district shall appoint three members of the board, who are persons residing within the district, which three members shall become members of and constitute the board of the district without any further act or proceedings.

If the number of members of the board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three, and the additional member or members shall thereupon become members of the board; 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, shall be and constitute 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, shall be conclusively considered to be the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

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

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

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

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after the first day of January of each year by selecting one of its members to serve as chairman 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 the 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 chairman, 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. (1953, c. 147; 1966, c. 134; 1971, c. 72; 1981, c. 124; 1983, c. 166; 1986, c. 81.)

Effect of amendment of 1966. — The Cited in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).
amendment rewrote the second paragraph and added the present seventh paragraph.

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

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

Effect of amendment of 1986. — The Quoted in State v. Neary, 365 S.E.2d 395 (W. Va. 1987).
amendment rewrote the section.

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

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting. Salaries of each of its board members shall be as follows: For districts with fewer than six hundred customers, each board member shall receive fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed nine hundred dollars per annum; for districts with six hundred customers or more but fewer than two thousand customers, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed eighteen hundred dollars per annum; and for districts with two thousand customers or more, each board member shall receive one hundred dollars per attendance at regular monthly meetings and fifty dollars per attendance at additional special meetings, total salary not to exceed three thousand dollars per annum. The public service

district shall certify the number of customers served to the public service commission beginning on the first day of July, one thousand nine hundred eighty-six, and continue each fiscal year thereafter. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules and regulations of the board. The board shall by resolution determine its own rules of procedure, fix the time and place of its meetings and the manner in which special meetings may be called. Public notice of meetings shall be given in accordance with section three (§ 6-9A-3), article nine-a, chapter six of this code. Emergency meetings may be called as provided by section three (§ 6-9A-3), article nine-a, chapter six of this code. A majority of the members constituting the board also constitute a quorum to do business. The members of the board are not personally liable or responsible for any obligations of the district or the board but are answerable only for willful misconduct in the performance of their duties. At any time prior to the issuance of bonds as hereinafter provided, the board may by resolution change the official or corporate name of the public service district and such change shall be effective from and after filing an authenticated copy of such resolution with the clerk of the county commission of each county in which the territory embraced within such district or any part thereof is located. The official name of any district created under the provisions of this article may contain the name or names of any city, incorporated town or other municipal corporation included therein or the name of any county or counties in which it is located. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the section.

§ 16-13A-5. General manager of board.

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

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

The board of any public service district which purchases water or sewer service from a municipal water or sewer system or another public service district may, as an alternative to hiring its own general manager, elect to permit the general manager of the municipal water or sewer system or public

service district from which such water or sewer service is purchased provide professional management to the district, if the appropriate municipality or public service board agrees to provide such assistance. The general manager shall receive reasonable compensation for such service. (1953, c. 147; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The amendment added "or sewer" in four places in the last paragraph.

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

The board of such districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same. All contracts involving the expenditure by the district of more than five thousand dollars for construction work or for the purchase of equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provisions of article three (§ 59-3-1 et seq.), chapter fifty-nine of this code, and the publication area for such publication shall be as specified in section two (§ 16-13A-2) of this article in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in awarding public service district contracts. It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American-made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years. (1953, c. 147; 1967, c. 106; 1981, c. 124; 1982, c. 24; 1986, c. 81.)

Effect of amendment of 1986. — The amendment rewrote the second sentence; other minor changes.

Effect of amendment of 1986. — The amendment rewrote the fourth and fifth sentences, and made

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

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

quent users of either water or gas facilities, or both: Provided, however, That upon written request of the owner or owners of the premises, the board shall shut off and discontinue water and gas services where any rates, rentals, or charges for services or facilities remain unpaid by the user of the premises for a period of sixty days after the same became due and payable.

In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately either water facilities or sewer facilities, and the district owns and operates the other kind of facilities, either water or sewer, as the case may be, then the district and such publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the supplying of water service for the non-payment 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 shall have 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, regulations and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the department of health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any such sewer facilities, where sewage will flow by gravity or be transported by such other methods approved by the department of health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, from such houses, dwellings or buildings into such sewer facilities, to connect with and use such sewer facilities, and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such houses, dwellings and buildings where there is such gravity flow or transportation by such other methods approved by the department of health including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine [§ 16-1-9], article one, chapter sixteen of this code, and such houses, dwellings and buildings can be adequately served by the sewer facilities of the district, and it is hereby found, determined and declared that the mandatory use of such sewer facilities provided for in this paragraph is necessary and essential for the health and welfare of the inhabitants and

residents of such districts and of the state: Provided, That if the public service district determines that the property owner must connect with the sewer facilities even when sewage from such dwellings may not flow to the main line by gravity and the property owner must incur costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for such changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump, or any other method approved by the department of health; maintenance and operation costs for such extra installation should be reflected in the users charge for approval of the public service commission. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

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

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

Anything in this section to the contrary notwithstanding, any establishment, as defined in section two (§ 20-5A-2), article five-a, chapter twenty, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the department of natural resources, as prescribed by section seven (§ 20-5A-7), article five-a, chapter twenty of this code, is exempt from the provisions of this section. (1953, c. 147; 1965, c. 134; 1980, c. 60; 1981, c. 124; 1986, c. 81; 1989, c. 174.)

Effect of amendment of 1966. — The paragraph, added the present fourth through amendment rewrote the section.
Effect of amendment of 1989. — The seventh sentences, and added the proviso at the end of the last sentence; substituted "shall amendment, effective April 8, 1989, in the first covenant" for "may covenant" in the first sen-

tence of the second paragraph, and substituted "users" for "users" near the end of the third paragraph.

§ 16-13A-11. Accounts; audit.

The general manager, under direction of the board, shall install and maintain a proper system of accounts, in accordance with all rules, regulations or orders pertaining thereto by the public service commission, showing receipts from operation and application of the same, and the board shall at least once a year cause such accounts to be properly audited: Provided, That such audit may be any audit by an independent public accountant completed within one year of the time required for the submission of the report: Provided, however, That if the district is required to have its books, records and accounts audited annually by an independent certified public accountant as a result of any covenant in any board resolution or bond instrument, a copy of such audit may be submitted in satisfaction of the requirements of this section, and is hereby found, declared and determined to be sufficient to satisfy the requirements of article nine (§ 6-9-1 et seq.), chapter six of this code pertaining to the annual audit report by the state tax commission. A copy of the audit shall be forwarded within thirty days of submission to the county commission and to the public service commission.

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

Effect of amendment of 1986. — The amendment rewrote the section.

§ 16-13A-13. Revenue bonds.

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

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

Effect of amendment of 1989. — The in the second sentence and "nineteen percent" amendment, effective April 8, 1989, substituted for "thirteen percent" in the fifth sentence, and substituted "eighteen percent" for "twenty percent" made a minor punctuation change.

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

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

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

located to be placed in the general funds of such county commission. (1963, c. 75; 1981, c. 124; 1986, c. 81.)

Effect of amendment of 1986. — The places and made a minor change in punctuation. amendment added ", sewer or gas" in seven places.

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

This article shall constitute 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, shall be 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 state department of health and the state water resources board shall remain unaffected by this article. Every district organized, consolidated, merged or expanded under this article is declared to be 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 shall be 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. (1963, c. 147; 1986, c. 81.)

Effect of amendment of 1986. — The amendment added ", consolidated, merged or expanded" near the middle of the section.

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

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

out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual. Any other provisions of this article to the contrary notwithstanding, interest on any such loans or temporary advances may be paid from the proceeds thereof until the maturity of such notes or other negotiable instrument. (1958, c. 14; 1980, c. 60; 1981, c. 124; 1986, c. 118.)

Effect of amendment of 1986. — The amendment added the last sentence.

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

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of sections thirteen, twenty or twenty-four [§§ 16-13A-13, 16-13A-20 or 16-13A-24] of this article, without the prior consent and approval of the public service commission. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four [§ 24-1-1 et seq.] of this code, when a public service district is seeking to acquire or construct public service property.

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

- (a) The amount of money to be borrowed, or the amount of revenue bonds to be issued. Provided, That if the amount is an estimate, the notice may be stated in terms of an amount "not to exceed" a specific amount;
- (b) The interest rate and terms of the loan or bonds. Provided, That if the interest rate is an estimate, the notice may be stated in terms of a rate "not to exceed" a specific rate;
- (c) The public service properties to be acquired or constructed, and the cost of same;
- (d) The anticipated rates which will be charged by the district. Provided, That if the rates are an estimate, the notice may be stated in terms of rates "not to exceed" a specific rate; and

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

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

Effect of amendment of 1986. — The amendment rewrote the section.

ARTICLE 14.

BARBERS AND BEAUTICIANS.

Sec. 16-14-2. Barbering, beauty culture and manicuring defined.

§ 16-14-1. Jurisdiction over barbers and beauticians; powers and duties of director of health.

Stated in *Wheeling Barber College v. Roush*, 321 S.E.2d 694 (W. Va. 1984).

§ 16-14-2. Barbering, beauty culture and manicuring defined.

For the purpose of this article "barbering" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to wit: Shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair, or applying tonics thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, antiseptics, cosmetics, powders, clays or other preparations; and any such acts when done to encourage the use or sale of articles of trade, or for pay, rewards or other compensation, whether to be received directly or indirectly.

"Beauty culture" shall mean any one or combination of the following acts, when done on the human body, and not for the treatment of disease, to wit: The care, preservation and beautification of the hands and nails, commonly called manicuring; the cleansing, curling, waving, permanent waving, straightening, arranging, dressing, bleaching, tinting, coloring and shaping the hair, including such cutting of the hair as is necessary for the purposes mentioned in this paragraph; the application to, or treatment and massage of, the scalp, face, neck, arms, hands, or upper part of the body with oils, creams,

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JANUARY

Term,

FIFTEENTH

Day

JANUARY

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THURSDAY, JANUARY 30th, 1958

IN RE: LUBECK DISTRICT - PUBLIC SERVICE DISTRICT WITHIN WOOD COUNTY, WEST VIRGINIA.
Parkersburg, West Virginia
Jan. 30, 1958

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

Aye: Harry C. Nicely
Guy M. Kincheloe
Malcolm B. 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 M. Kincheloe seconded the motion and after due consideration the President put the question on the motion and the roll being called, the following voted:

Aye: Harry C. Nicely
Guy M. Kincheloe
Malcolm B. 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 S. 37° 00' 00" W. 2.9 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 38' 53", thence West 1.80 miles to a point having a latitude of N. 39° 12' 43" and a longitude of W. 81° 40' 55", thence to the Ohio River N. 32° 00' 00" W. 0.75 miles to a point having a latitude of N. 39° 13' 16" and a longitude of W. 81° 41' 22", thence along and with the Ohio River approximately 6.85 miles to the beginning.

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

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

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

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. Gorrell, 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. Gorrell 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)

County of Wood) ss

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.

(SEAL)

s/ L. C. White County Court Clerk

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. DeWoe
Deputy



JULY 11, 1988

7/11/88
5/72

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.

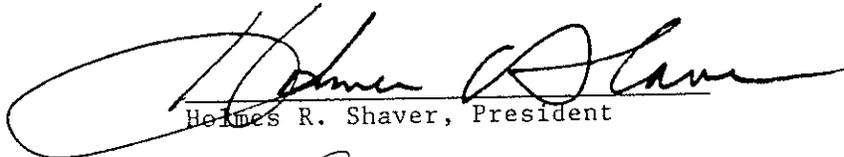
O R D E R

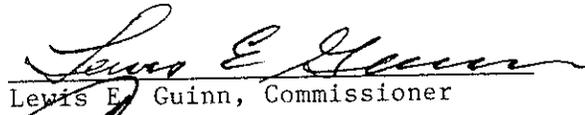
The County Commission of Wood County, on this date, approved the enlargement of the Lubeck Public Service District upon a motion made by Lewis E. Guinn, seconded by Steven A. Grimm and made unanimous by Holmes R. Shaver. This action is pursuant to the Public Hearing held on Thursday, July 7, 1988, at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

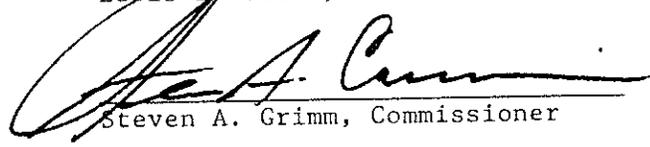
Attached to this Order is a Resolution and affidavits of notice and posting within the area to be annexed, and should be made a part thereof.

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. $39^{\circ} 12' 43''$ and having a longitude of W. $81^{\circ} 40' 55''$; thence in a southeasterly direction approximately 2.3 miles to a point having a latitude of N. $39^{\circ} 11' 13''$ and having a longitude of W. $81^{\circ} 39' 07''$; thence in an easterly direction approximately 4.6 miles to a point having a latitude of N. $39^{\circ} 11' 13''$ and having a longitude of W. $81^{\circ} 33' 07''$; thence in a northerly direction approximately 2.5 miles to a point having a latitude of N. $39^{\circ} 13' 25''$ and having a longitude of W. $81^{\circ} 33' 07''$; 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. $39^{\circ} 14' 24''$ and a longitude of W. $81^{\circ} 35'$; 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. $39^{\circ} 14' 24''$ and a longitude of W. $81^{\circ} 36' 58''$; thence southwest approximately 2.9 miles to a point having a latitude of N. $39^{\circ} 12' 43''$ and a longitude of W. $81^{\circ} 38' 58''$; 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

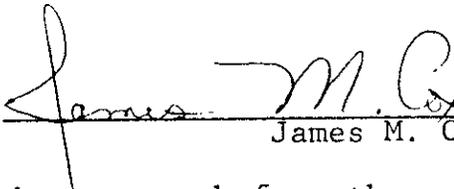

Commissioner

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:

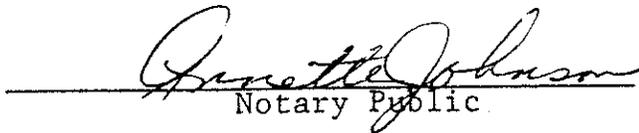
1. ~ 0.8 MILE ON HOMEWOOD RD. FROM LUBECK = LARRY BROTHERS PROPERTY
2. ~ 0.25 MILE ON LOST PAVEMENT RD. FROM ROUTE 32 OR GIBSON RD.
3. ~ 0.6 MILE ON HOPE HILL RD. FROM ROUTE 32 OR GIBSON RD. = M^CHARRY PROPERTY.
4. ~ INTERSECTION OF ROUTES 21/17 & 13/10.
5. AT THE OLD WILLIAMS SCHOOL ON ROUTE 38.
6. ~ INTERSECTION OF ROUTES 13 & 9/8.

Dated this 25TH day of June, 1988.


James M. Cox

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

My commission expires: 10-8-91


Notary Public

**NOTICE OF PUBLIC HEARING
TO ENLARGE LUBECK PUBLIC SERVICE
DISTRICT TO INCLUDE THE LOST
PAVEMENT, MISSOURI RUN, HOPE HILL,
HOMWOOD 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 follow:

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

June 24 N

MARCIA MOORE

being first duly sworn, says that the
notice of public hearing---7th day of
JULY

hereto attached was printed in the **Parkersburg News**
a daily newspaper published
in the City of Parkersburg, Wood County, West Virginia, and posted
at the front door of the Court House for one
successive weeks, the first publication and posting thereon being on
the 24th day of JUNE 19 88, and subse-
quent publication on 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.

Walter C. Spruce
Notary Public for Wood County, West Virginia

My commission expires 7-21-92

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



RULES AND PROCEDURES

LUBECK PUBLIC SERVICE DISTRICT

ARTICLE I

Name and Place of Business

Section 1. Name: LUBECK PUBLIC SERVICE DISTRICT

Section 2. The principal office of this Public Service District will be located at Washington, in Wood County, West Virginia.

Section 3. The Common Seal of the District shall consist of two 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 the 1st day of July in each year and shall end on the following June 30.

ARTICLE II

Purpose

This District is organized exclusively for the purposes set forth in Chapter 16, Article 13A of the Code of West Virginia, as amended.

ARTICLE III

Membership

Section 1. The members of the Public Service Board of this District shall be those persons appointed by the County Commission of Wood County, West Virginia, who shall serve for such terms as may be specified in the order of the County Commission by which they are appointed.

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

ARTICLE IV

Meetings of the Public Service Board

Section 1. The members of the Public Service Board of this District shall hold regular monthly meetings on the second and fourth Thursdays of each month 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 Public Service Board may be called at any time by the Chairman or by a quorum of the Board.

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

Section 3. No notice shall be required for regular meetings. Notice in writing of each special meeting of the membership shall be given to all members of the Secretary by mailing the same to the last known post office addresses of the members at least three (3) days before the date fixed for such meeting. The notice of any special meeting shall state briefly the purposes of such meeting and the nature of the business to be transacted thereat, and no business other than that stated in the notice or incidental thereto shall be transacted at any such special meeting. However, if all the members are present, they may hold a special meeting at any time and at any place without notice of any special meeting may be waived in writing by all of the members.

ARTICLE V

Officers

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

Section 2. The officers of the Public Service Board shall be elected each year by the members at the first meeting held in the month of January of such 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 Public Service Board at a regular or special meeting. Persons selected to fill vacancies shall serve until the following January meeting of the Board when their successors shall be elected as hereinabove provided.

ARTICLE VI

Duties of Officers

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

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

Section 3. The Secretary shall keep a record of all proceedings of the Board which shall be available for inspection as other public records. He shall, together with the Chairman, sign the minutes of the meetings at which he is present. The Secretary shall have charge of the minute book, be the custodian of deeds and other writings and papers of the

Board. He shall also perform such other duties as he may have under law by virtue of his office or as may be conferred upon him 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 furnish bond in an amount to be fixed by the Board from time to time for the use and benefit of the District. The Treasurer shall keep or cause to be kept proper and accurate books of accounts and proper receipts and vouchers for all disbursements made by or through him 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. He shall perform such other duties as may be required of him by law or as may be conferred upon him by the members of the Board.

ARTICLE VII

Amendments to Rules and Procedures

These Rules and Procedures may be altered, changed, amended or added to at any regular or special meeting of the Board by a majority of the members when a quorum is present in person and a majority of those present vote for the amendment; but no such change, alteration, amendment or addition shall be made at any special meeting unless notice of the intention to propose such change, alteration, amendment or addition and a clear statement of the substance thereof be included in the written notice calling such meeting.

CERTIFICATION

The undersigned, Charles H. Huffman, Jr., Secretary of the Public Service Board of Lubeck Public Service District hereby certifies that the foregoing Rules and Procedures of the Public Service Board of Lubeck Public Service District are a true and correct copy of the original Rules and Procedures.

Dated this 28th day of March, 1990.



(Charles H. Huffman, Jr.

6960P



OCTOBER TERM

EIGHTEENTH DAY
MONDAY, DECEMBER 11, 1989

DECEMBER, 1989.

At a regular session of the County Commission, continued and held for the County of Wood, at the Court House thereof, Monday, December 11, 1989, Present, Lewis E. Guinn, President of said Commission, and Steven A. Grimm and Holmes R. Shaver, Commissioners.

IN RE: JAMES E. SMITH--REAPPOINTMENT--OATH OF OFFICE--PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT.
Upon motion duly made, seconded and passed, and made unanimous, this day the Wood County Commission reappointed James E. Smith as a member of the Public Service Board of Lubeck Public Service District, for a six year term beginning January 1, 1990, and expiring January 1, 1996. With the approval of the County Commission, the said James E. Smith subscribed to the following oath as such reappointed member of the Public Service Board of Lubeck Public Service District.

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

I, JAMES E. SMITH, 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 REAPPOINTED MEMBER PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT 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/ James E. Smith

Subscribed and sworn to, before THE COUNTY COMMISSION of Wood County, West Virginia, this 11th day of December, 1989.

Term expires: 1/1/96.

Jamie Six
Clerk Wood County Commission
By: Pauline Eaton, Deputy"

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: JAMES E. SMITH--REAPPOINTMENT--OATH OF OFFICE--PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in COURT ORDER BOOK NO. 51, Page 247

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

✓ IN RE: CHARLES H. HUFFMAN, JR.--REAPPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT.

Upon motion duly made, seconded, passed and made unanimous, this day the County Commission, by a paper writing bearing date the 26th day of November, 1985, which is hereby ordered filed, appointed Charles H. Huffman, Jr., as member of the Public Service Board of Lubeck Public Service District for a term of six years, and the said term of Charles H. Huffman, Jr., as a reappointed member of the Public Service Board of Lubeck Public Service District will expire on the 31st day of December, 1991. With the approval of the County Commission, the said Charles H. Huffman, Jr., subscribed to the following oath as such reappointed member of the Public Service Board of Lubeck Public Service District.

"STATE OF WEST VIRGINIA,
COUNTY OF WOOD

TO-WIT:

I, Charles H. Huffman, Jr., 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 REAPPOINTED MEMBER PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT 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/ Charles H. Huffman, Jr.

Subscribed and sworn to, before THE COUNTY COMMISSION of Wood County, West Virginia, this 9th day of January, 1986.

H. K. Smith
Clerk Wood County Commission
By: Pauline Eaton, Deputy"

Term expires: 12/31/91.

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: CHARLES H. HUFFMAN, JR.--REAPPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in _____ COURT ORDER BOOK NO. 47 _____, Page 269

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, 19 90

JAMIE SIX

CLERK WOOD COUNTY COMMISSION

By: Pauline Eaton
Deputy

OCTOBER TERM

TWENTY FOURTH DAY
MONDAY, DECEMBER 28, 1987

DECEMBER, 1987

At a regular session of the County Commission, continued and held for the County of Wood, at the Court House hereof, Monday, December 28, 1987, Present, Lewis E. Guinn, President Pro Tem of said Commission, and Steven A. Grimm, Commissioner.

✓ IN RE: LEE JOHNSON--REAPPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT.

Upon motion duly made, seconded and made unanimous, this day the Wood County Commission reappointed Lee Johnson as a member of the Public Service Board of Lubeck Public Service District for a six year term, December 1, 1987 thru December 31, 1993. With the approval of the County Commission, the said Lee Johnson subscribed to the following oath as such reappointed member of the Public Service Board of Lubeck Public Service District.

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

I, Lee Johnson, 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 REAPPOINTED MEMBER OF THE PUBLIC SERVICE BOARD OF LUBECK PUBLIC SERVICE DISTRICT 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/ Lee Johnson

Subscribed and sworn to, before THE COUNTY COMMISSION of Wood County, West Virginia, this 28th day of December, 1987.

s/ Jamie Six
Clerk Wood County Commission"

Term: 12/31/87 thru 12/31/93.

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: LEE JOHNSON--REAPPOINTMENT--OATH OF OFFICE--MEMBER OF THE PUBLIC SERVICE BOARD
OF LUBECK PUBLIC SERVICE DISTRICT

as the same appears of record in my said Office in _____ COURT ORDER BOOK NO. 51 _____, Page 6

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



January 11, 1990

MINUTES FOR LUBECK PUBLIC SERVICE DISTRICT REGULAR BOARD MEETING

Attending: Jim Smith, Charlie Huffman, Lee Johnson, Lawrence Ronning, Phil Postlewait, Jim Cox and Bill Packard.

No. of Customers:	Sect. #1 L. Washington Rd.	441
	2 Lubeck	320
	3 Riverhill Rd.	339
	4 DuPont Rd.	290
	5 Larkmead	262
	7 Washington Bottom	260
	8 New England Rdg.	283
	9 Lubeck South	321
	10 Larkmead-Marrtown	<u>264</u>
		2,780

Treasurer's Report: (after transactions)

Revenue Fund	\$	216.68
Operation Maintenance Fund		361.05
Sewer Fund		503.43
Security Deposits -- Bank of Lubeck		6,388.46
Construction Fund		635.12
Central Sewer Money Mkt PH		1,871.32
Sewer Construction Account		768.42
Oper-Maint Reserve-BOL		28,555.36
Sewer Reserve-BOL		115,909.31
Const Reserve-BOL		12,836.38
DuPont Escrow Account-BOL opened 6/8/89		79,088.79

The following transfers were authorized:

01/05 From Revenue to OM Checking-PNB	\$	2,500.00
01/11 From Revenue to OM Checking-PNB		20,000.00
01/11 From Revenue to OM Reserve		5,000.00

The following bills were presented for payment:

01/05 Mountain State Bank Note #55300	\$	2,387.25
01/05 William Packard tools from Sears		100.93
BPSD petty cash-19.00		
Davis-cleaning 1/8-1/9 90.00		109.00
Kenneth Johnson Sec Dep w/int		12.78
Lisa Donahue " " "		28.66
Jennifer Carpenter " " "		29.52
Larry Weiler " " "		29.70
Am Water Works membership		58.00
RUS uniform rental		246.80
Ronning & Brown services 10/5/89-12/14/89		2,193.00
WV Public Emp Retirement December		2,171.72
James M. Cox services 10/30/88-11/30/89		2,287.50
Philip Postlewait December services		900.00
Hope Gas office and garage		523.66
C & P Telephone office and alarm		261.55

Bills presented for payment continued:

Hopkins Hdw	material	\$ 54.59
Snap-On	tools	435.75
Mays Machine	wrenches	36.00
Tebay Dairy	December fuel charge	99.47
Powell's General Store	December fuel charge	206.47
Monongahela Power	power bills	373.67
AGA Gas	tip	12.00
Parkersburg AC Motor	pullups	22.24
Auto Fleet & Industrial Supply	tools	8.38
Tri State Wholesale	overalls	38.75
Wood County Waste	January trash pickup	12.00
Newberry Hdw	tools	43.35
Gress Equipment	tools	114.46
WV Water & Waste	line supplies	188.40
Burgess & Niple	invoice #5389-89	2,053.59

BUSINESS: Invocation by Charles Huffman.

It was moved by Charles Huffman, seconded by Lee Johnson that the responsibilities of the board members remain the same for the year 1990: Chairman, Jim Smith; Secretary, Charles Huffman and Treasurer, Lee Johnson. With no discussion, the motion passed unanimously.

PSC Certificate Case: Bill reported that letters were sent to the low bidders of the four proposed projects asking for a 45 day extension on their bids submitted. This was done to make sure the PSC cannot cause us to lose our bids. Bill is to call Ms. Rodak of the PSC concerning the status of the decision.

Mr. Ronning recommended awarding the contracts, contingent on PSC's approval and receiving the bond money. A motion was made by Lee Johnson and seconded by Charles Huffman that Lubeck PSD award the contracts, as amended by the PSC, to the four low bidders contingent on the PSC approval and the receiving of bond money. The motion passed unanimously.

Sick Leave Policy: Bill presented a rough sketch of a sick leave policy. The Commissioners discussed pros and cons of the outline and asked Bill check with WVDON on their policy and with CCMH on their incentive program. The results should be presented at the next meeting.

DNR Rules: Bill briefly discussed the changing of DNR rules by the legislature. The rules being changed deal with permit fees collected by DNR for our sewer plants.

Being no further business, the meeting was adjourned.

APPROVED Lee Johnson ATTESTED James G. Smith

Certified to be a true copy of minutes of a regular meeting of the Board of the Lubeck Public Service District held January 11, 1990.

Secretary,
Charles H. Huffman
Charles H. Huffman



LUBECK PUBLIC SERVICE DISTRICT
BOND RESOLUTION

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LUBECK PUBLIC SERVICE DISTRICT
BOND RESOLUTION

A RESOLUTION AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF A WATER TREATMENT PLANT AND AN EXTENSION TO THE EXISTING WATERWORKS SYSTEM IN THE LUBECK PUBLIC SERVICE DISTRICT, WOOD COUNTY, WEST VIRGINIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE LUBECK PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$3,285,500 IN AGGREGATE PRINCIPAL AMOUNT OF WATER SYSTEM REVENUE BONDS, SERIES A AND SERIES B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER SYSTEM REVENUE BONDS; AUTHORIZING THE SALE OF SUCH WATER SYSTEM REVENUE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY BY SUPPLEMENTAL RESOLUTION; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

The Public Service Board of the Lubeck Public Service District hereby adopts and orders:

ARTICLE I

DEFINITIONS, STATUTORY AUTHORITY AND FINDINGS

Section 1.01. Definitions. The following terms have the following meanings in this Resolution unless the context expressly requires otherwise:

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

"Authority" means the West Virginia Water Development Authority or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the chairman of the Board, as hereinafter defined, or any other officer of the public service board of the Lubeck Public Service District specifically designated by resolution of the Board, as hereinafter defined, as such.

"Board" means the public service board of the Lubeck Public Service District and shall include the membership of the Board as may hereafter be duly constituted as the legal

successors to the present membership or any other authority vested with and authorized to exercise the powers of the Lubeck Public Service District.

"Bond or Bonds" means the District's Series A Bond and Series B Bond, as hereinafter defined, and any additional bonds hereafter issued within the terms, restrictions and conditions contained in this Resolution and any Supplemental Resolution.

"Bonds Capitalized Interest Account" means the Water System Revenue Bonds Capitalized Interest Account established with the Bond Commission by Section 4.02(1) hereof.

"Bond 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.

"Bond Year" means the 12 month period beginning on the anniversary of the closing date of the Bonds of each year and ending on the date immediately preceding the anniversary of the closing date for the Bonds in the following year, except that the first Bond Year shall begin with the closing date for the Bonds.

"Code" means the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder, or under any predecessor thereto.

"Construction Trust Fund" means the Lubeck Public Service District Construction Trust Fund established by Section 4.01(3) hereof.

"Consulting Engineers" means Burgess & Niple, Limited, consulting engineers, Parkersburg, West Virginia, or any engineer or firm of engineers of reputation for skill and experience with respect to the design and construction of water systems or facilities that have been retained by the Lubeck Public Service District as Consulting Engineers for the System, as hereinafter defined.

"Cost(s) of the Project" or similar phrases mean those costs described in Section 1.03F hereof to be part of the costs of construction and acquisition of the Project, as hereinafter defined.

"Depository Bank" means One Valley Bank, National Association, a national banking association, Charleston, West Virginia, or any one or more State banking corporations or national banking associations located in the State, eligible under the laws of the State to receive deposits of state and municipal funds and insured by the FDIC, as hereinafter defined and designated as custodian of any one or more of the funds or accounts established by Article IV hereof.

"District" means the Lubeck Public Service District, a public corporation organized and existing under the laws of, and a political subdivision of, the State of West Virginia and, where appropriate, the Board thereof.

"Earnings Fund" means the Lubeck Public Service District Earnings Fund created in Section 6.03B hereof.

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

(A) the excess of (i) the amount earned on all Nonpurpose Investments [other than investments attributable to an excess described in this subparagraph (A)], over (ii) the amount which would have been earned if such Nonpurpose Investments were invested at a rate equal to the yield on the issue, plus

(B) any income attributable to the excess described in subparagraph (A).

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

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

"General Resolution" means the general resolution adopted by the Authority.

"Governmental Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by the United States of America.

"Gross Proceeds" means the definition that is given such term in Section 148(f)(6)(B) of the Code.

"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, purchased pursuant to Article VI hereof) or any Tap Fees, as hereinafter defined.

"Independent Accountant" means Philip R. Postlewait, Jr., certified public accountant, Parkersburg, West Virginia, or any other certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the District to prepare an independent annual or special audit of the accounts of the System, as hereinafter defined, or for any other purpose except keeping the accounts of such System in the normal operation of its business and affairs.

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

"Loan Agreement" means the loan agreement executed by the District on February 7, 1990, between the District and the Authority, pursuant to which the Authority has agreed to purchase \$3,139,013.00 in aggregate principal amount of the Series A Bond, as the same may be supplemented or amended.

"Net Revenues" means Gross Revenues less Operating Expenses, as hereinafter defined.

"Nonpurpose Investments" means the definition given such term in Section 148(f)(6)(A) of the Code.

"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 supplies, labor, wages, the cost of materials and supplies used for current operations, capitalized as part of the Cost of the Project), fees and expenses of fiscal agents, the Paying Agent, as hereinafter defined, the Depository Bank and the Authority, 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 the Bonds and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered except (1) any

Bond cancelled by the Registrar, as hereinafter defined, at or prior to the date; (2) any Bond for the payment of which moneys, equal to its principal amount, with interest to the date of maturity, shall be in trust under this Resolution and set aside for such payment (whether upon or prior to maturity); and (3) any Bond deemed to have been paid as provided in Article IX hereof.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 5.09 hereof.

"Paying Agent" means the bank, or such other entity designated by the District by the Supplemental Resolution.

"Plans and Specifications" means the plans and specifications for the construction of the Project prepared by the Consulting Engineers on file in the office of the District.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local government entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the public service properties for the storage, treatment and distribution of water of the District, as described in Exhibit A attached hereto and incorporated herein by reference.

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

A. Government Obligations;

B. Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; the Federal National Mortgage Association (but only to the extent such obligations are guaranteed by the Government National Mortgage Association); or the Government National Mortgage Association;

C. Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; temporary notes, preliminary loan notes or project notes issued by public

agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

D. Certificates of deposit or other similar banking arrangements permitted by law, with a member bank or member banks of the Federal Reserve System or banks the deposits of which are insured by the FDIC, upon the terms and conditions as follows:

(i) all moneys invested in each such interest-bearing time deposit, certificate of deposit or similar banking arrangement shall be continuously and fully secured by obligations of the types described in clauses A, B and C above of a market value equal at all times to the amount of the deposit, certificate or similar banking arrangement; and

(ii) each such interest-bearing time deposit, certificate of deposit or similar banking arrangement shall permit the moneys so placed to be available for use at the times provided with respect to the investment or reinvestment of such moneys;

E. Direct and general obligations of the State or any other state within the territorial United States, to the payment of the principal of and interest on which the full faith and credit of such state is pledged; provided, that, at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond rating agency;

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

G. Repurchase agreements relating to any securities of the type described in clauses A or C above with any banking institution or association, including the Depository Bank, or any other financial institution, provided that the Depository Bank (unless it is the issuer, in which case a third party) or the Bond Commission, as the case may be, or its agent have possession of the collateral, and that such collateral be free of claims of third parties; and

H. 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 and Poor's Corporation.

"Rebate Fund" means the Lubeck Public Service District Rebate Fund created by Section 6.03B hereof.

"Registrar" means the bank or such other entity designated by the District as Registrar herein or by the Supplemental Resolution and its successors and assigns.

"Renewal and Replacement Fund" means the Lubeck Public Service District Water System Renewal and Replacement Fund established by Section 4.01(2) hereof.

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

"Revenue Fund" means the Lubeck Public Service District Water System Revenue Fund established by Section 4.01(1) hereof.

"Series A Bond" means the Series A Water System Revenue Bond of the District described in Section 3.02 hereof.

"Series A Bond Reserve Account" means the Series A Water System Revenue Bond Reserve Account established in the Series A Sinking Fund, as hereinafter defined by Section 4.02(1) hereof.

"Series A Bond Reserve Account Requirement" means the maximum amount of principal and interest which will come due on the Series A Bond in the then current or any succeeding year.

"Series A Sinking Fund" means the Series A Water System Revenue Bond Sinking Fund established by Section 4.02(1) hereof.

"Series B Bond" means the Series B Water System Revenue Bond of the District described in Section 3.02 hereof.

"Series B Bond Reserve Account" means the Series B Water System Revenue Bond Reserve Account established in the Series B Sinking Fund, as hereinafter defined, by Section 4.02(2) hereof.

"Series B Bond Reserve Account Requirement" means the maximum amount of principal which will come due on the Series B Bond in the then current or any succeeding year.

"Series B Sinking Fund" means the Series B Water System Revenue Bond Sinking Fund established by Section 4.02(2) hereof.

"State" means the State of West Virginia.

"Supplemental Loan Agreement" means the supplemental loan agreement executed by the District on February 7, 1990, between the District and the Authority, pursuant to which the Authority has agreed to purchase \$146,487.00 in aggregate principal amount of the Series B Bond, as the same may be supplemented or amended.

"Supplemental Resolution" means any resolution of the Board amending or supplementing this Resolution.

"Surplus Revenue" means the Net Revenue not required by the Resolution to be set aside and held for payment of or security for the Bonds or any other obligation of the District including the Renewal and Replacement Fund and the respective reserve accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

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

"Tap Fees" means the fees paid by customers of the District initially to connect onto the System.

"Water Development Act" means Chapter 20, Article 5C, of the Code of West Virginia of 1931, as amended, and in effect on the date of adoption of this Resolution.

"Yield" means the definition given that term in Section 148(h) of the Code.

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

Words importing singular number include the plural number in each case and vice versa; words importing the masculine gender include every other gender; and words importing persons include firms, partnerships, associations and corporations.

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

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

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

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

A. The District is a public service district of the State of West Virginia situated in Wood County of the State. The District presently operates well fields, a water plant and distribution facilities which are inadequate to serve the present residents of the District.

B. It is deemed necessary and desirable for the health, welfare and safety of the inhabitants of the District that the Project be constructed at an estimated cost of \$5,535,020, in accordance with the Plans and Specifications.

C. The District has entered into an agreement to sell its existing well field and appurtenant facilities to E. I. du Pont de Nemours & Co. The District will apply moneys to be received from E. I. du Pont de Nemours & Co. to the construction of the Project.

D. The District does not have any bonds or other obligations outstanding as of the date hereof which have a lien on the Gross Revenues or on the Net Revenues derived from the operation of the System.

E. The estimated Gross Revenues to be derived from the operation of the System in each year after the construction of the Project will be sufficient to pay all Operating Expenses and to pay the principal of and interest on the Bonds and to pay all Sinking Fund, respective reserve account, and Renewal and Replacement Fund and other payments provided for in this Resolution.

F. It is deemed necessary for the District to issue its Bonds and to finance costs of the construction and acquisition of the Project. Costs of the Project shall be deemed to include the cost of the acquisition or construction of the Project; the cost of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements determined upon as provided in the Act; interest upon the Bonds prior to, during and for six months after the completion of construction and acquisition of the Project;

amounts which may be deposited in the respective reserve accounts; costs and expenses of the Authority related and incidental to the Project and the issuance of the Bonds, engineering and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project; administrative expenses; commitment fees, fees and expenses of the Authority, discount, initial fees for the services of the Registrar, Paying Agent or depositories or other costs in connection with the sale of the Bonds; and such other expenses as may be necessary or incident to the financing authorized by this Resolution and the Act; the construction and acquisition of the Project and the placing of the same in operation and the performance of the things herein required or permitted in connection with any thereof including with respect to the Bonds any commitment fees to the Authority; provided, that reimbursement to the District for any amounts expended by it for any allowable costs prior to the issuance of the Bonds or the repayment of indebtedness incurred by the District for such purposes shall be deemed Costs of the Project.

G. The Authority has agreed to purchase not more than \$3,285,500 in aggregate principal amount of the Bonds pursuant to the terms and provisions of the Loan Agreement and the Supplemental Loan Agreement.

H. It is in the best interests of the District that its Bonds be sold to the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement as soon after the adoption of this Resolution as may be practicable and authorized and permitted by applicable law.

I. The period of usefulness of the System after completion of the Project is not less than forty (40) years.

J. The District has complied with all requirements of State law relating to the authorization of the construction, acquisition and operation of the System and the issuance of the Bonds, or will have so complied prior to issuance of any thereof, including among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of the State by final order the time for rehearing and appeal of which have expired or the appeal of which shall have been waived by the District and the staff of the Public Service Commission of the State.

K. There are not outstanding any obligations of the District which will rank prior to or on a parity with the Bonds as to lien and source of the security for payment. The Series B Bond shall be junior and subordinate to the Series A Bond as set forth herein.

Section 1.04. Resolution Constitutes Contract. In consideration of the acceptance of the Bonds by those who shall be the registered owners of the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the District and such holders of the Bonds, and the covenants and agreements herein set forth to be performed by the District shall be for the equal benefit, protection and security, respectively, of the registered owners of any and all of such Bonds, all of which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF THE PROJECT; APPROVAL OF ACTIONS: APPROVAL AND EXECUTION OF DOCUMENTS

Section 2.01. Authorization of the Project. There is hereby authorized the construction and acquisition of the Project described in Exhibit A hereto at an estimated cost of \$5,535,020, in accordance with the Plans and Specifications which have been prepared by the Consulting Engineers heretofore filed in the office of the Board. The proceeds of the Bonds hereby authorized shall be applied as provided in Article IV hereof.

Section 2.02. Approval of Application, Loan Agreement, Amended Application and Supplemental Loan Agreement. The application for a construction loan to the Authority executed by an Authorized Officer of the District on November 17, 1989; the Loan Agreement; the amended application for a construction loan to the Authority, executed by an authorized officer of the District on November 17, 1989 and the Supplemental Loan Agreement are hereby approved, accepted and ratified. The execution by the Chairman of the Board and the Secretary of the Board of the Loan Agreement and the Supplemental Loan Agreement, copies of which are attached hereto as Exhibit D and Exhibit E, are hereby approved and ratified. The Chairman of the Board and

the Secretary of the Board are hereby authorized to execute all other documents required to be executed by or on behalf of the District by the terms of the Loan Agreement and the Supplemental Loan Agreement. All stipulations, covenants and agreements contained in the Loan Agreement and the Supplemental Loan Agreement are incorporated herein and made a part hereof as fully as if set out herein.

Section 2.03. Approval of Actions. The Chairman of the Board, the Secretary of the Board and the other officers of the District hereby are authorized and directed to execute any and all instruments and perform any and all acts as, in their discretion, may be necessary or advisable in effecting the purposes of this Resolution, any Supplemental Resolution, the Loan Agreement and the Supplemental Loan Agreement.

ARTICLE III

BONDS

Section 3.01. Authorization of Bonds. For the purpose of capitalizing interest on the Series A Bond, paying the Costs of the Project not otherwise provided for, funding the Series A Bond Reserve Account and Series B Bond Reserve Account, and paying certain costs of issuance and related costs, there shall be issued negotiable Bonds of the District, in an aggregate principal amount of not more than \$3,285,500. The Bonds shall be designated "Series A Bond" and "Series B Bond" in the aggregate principal amounts to be set forth in a Supplemental Resolution, and shall have such terms as set forth in Exhibit B and Exhibit C attached hereto or in a Supplemental Resolution. The proceeds of the Bonds remaining, if any, after funding of the respective Reserve Accounts and capitalization of interest shall be deposited in the Construction Trust Fund established by Section 4.01 hereof.

Section 3.02. Terms of the Series A Bond and Series B Bond. The Series A Bond and Series B Bond shall bear interest, if any, at such rate or rates not exceeding the then legal maximum; shall mature on such day in such year and in such amounts; and shall be redeemable, in whole or part, all as the District shall prescribe in a Supplemental Resolution. The Series A Bond and Series B Bond shall be payable as to principal at the office of the Paying Agent in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Series A

Bond shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Registrar, or by such other method as shall be mutually agreeable as long as the Authority is the holder thereof.

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

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

Section 3.03. Form of the Series A Bond and Series B Bond. The Series A Bond shall be issued in substantially the form set forth as Exhibit B hereto, with such appropriate corrections, omissions and insertions as are permitted or required by this Resolution or any Supplemental Resolution and are deemed advisable by the District.

The Series B Bond shall be issued in substantially the form set forth as Exhibit C hereto, with such appropriate corrections, omissions and insertions as are permitted or required by this Resolution or any Supplemental Resolution and are deemed advisable by the District.

Section 3.04. Execution of Bonds. The Bonds shall be executed in the name of the District by the manual or facsimile signature of an Authorized Officer thereof, and the seal of the District shall be affixed thereto or imprinted thereon and attested by the Secretary of the District by manual or facsimile signature. In case any one or more of the persons who shall have signed or sealed any Bond shall cease to hold such office before such Bond so signed and sealed shall have been delivered, such Bond nevertheless may be delivered as herein provided and may be issued as if such person had not

ceased to hold such office. Any Bond may be signed, sealed and attested on behalf of the District by such person who at the time of such actions shall hold the requisite office, regardless of whether such person shall have held such office or shall have been so authorized on the date of such Bond.

Section 3.05. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit hereof unless and until the Certificate of Authentication and Registration on such Bond shall have been duly executed by the Registrar. Any Certificate of Authentication and Registration upon any Bond so executed 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 signed by the manual signature of any officer of the Registrar duly authorized. It shall not be necessary that the same authorized officer sign the Certificate of Authentication and Registration on all of the Bonds or on all of the Bonds of any series.

Section 3.06. Negotiability and Registration. Subject to the requirements for transfer set forth below, the Bonds shall be, and have all of the qualities and incidents of, negotiable instruments under the Uniform Commercial Code of the State, and each successive holder, in accepting any of the Bonds, shall be deemed conclusively to have agreed to the incontestability of the Bonds in the hands of a bona fide holder for value, subject to compliance by such holder with the registration provisions herein and therein provided.

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

A Bond shall be transferable only by transfer of registration upon the books of the Registrar by the registered owner thereof in person or by his attorney or legal representative duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or such duly authorized attorney or legal representative. Upon transfer of a Bond, there shall be issued another Bond or Bonds (at the option of the transferee) of the same series, interest rate, if any, and maturity as the transferred Bond and of an aggregate principal amount equal to the unpaid principal amount of the transferred Bond.

In all cases in which the privilege of transferring or exchanging a Bond is exercised, any such Bond shall be delivered in accordance with the provisions of this Resolution. All Bonds surrendered in any such transfer or exchange shall be cancelled forthwith by the Registrar. Transfers of Bonds and exchanges of Bonds in the event of partial redemption shall be made by the Registrar without charge to the holder or the transferee thereof. For every transfer or exchange of Bonds, the Registrar may make a charge sufficient to reimburse its office for any tax or other governmental charge required to be paid with respect to such transfer or exchange. The District shall pay such service charge, tax or other governmental charge. The Registrar shall not be obliged to make any such transfer or exchange of Bonds during the period commencing with the 15th day of the month preceding (i) an interest payment date on the Bonds, or (ii) the date of selection of the Bonds to be redeemed (in the case of any proposed redemption of Bonds), and ending on such interest payment date or such Bond redemption date.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the District may execute, and the Registrar shall authenticate, register and deliver, a new Bond of like series, maturity and principal amount as the Bond so mutilated, destroyed, stolen or lost, either in exchange for and upon surrender and cancellation of, such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, but only if the holder shall furnish the District and the Registrar with proof of his ownership thereof and that the Bond has been destroyed, stolen or lost and shall comply with such other reasonable regulations and conditions as the District or the Registrar may stipulate and paying such expenses as the District and the Registrar may incur. The name of the holder listed in the the books of the Registrar shall constitute proof of ownership. All Bonds so surrendered shall be submitted to and cancelled by the Registrar, and evidence of such cancellation shall be given to the District. If any such Bond shall have matured or be about to mature, the District, by and through the Registrar, may pay the same without issuance of a substitute Bond therefor.

Section 3.08. Person Treated as Owners. The District, the Registrar and any agent of the District or the Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of the principal of and interest, if any, on such Bond, and for all other purposes, whether or not such Bond is overdue.

Section 3.09. Delivery of the Series A Bond and the Series B Bond. The District shall execute and deliver to the Registrar, and the Registrar shall authenticate, register and deliver to the Authority the Series A Bond and the Series B Bond, upon payment therefor and receipt of the documents set forth below:

A. A request and authorization to the Registrar on behalf of the District, signed by an Authorized Officer, to authenticate and deliver to the Authority the Series A Bond and the Series B Bond; and

B. The unqualified approving opinion of bond counsel designated by the District and acceptable to the Authority.

Section 3.10. Application of Proceeds of Bonds. The proceeds received from the sale of the Bonds, except for the funding of the Bond Capitalized Interest Account and the Reserve Accounts shall be deposited in the Construction Trust Fund, which, except as otherwise agreed to in writing by the holder of the Bonds, shall be held separate and apart from all other funds of the District and on which such holder of the Bonds shall have a lien until the Bond proceeds are applied to the Costs of the Project, provided, however, that to the extent, if any, that the Costs of the Project include the funding of any reserve accounts for the Bonds and Bond proceeds are to be so applied, as shall be determined by a Supplemental Resolution, the Bond proceeds shall be credited to the Construction Trust Fund and deposited in the respective reserve accounts and the holder of the Bonds shall have a lien on the proceeds in such reserve accounts.

Section 3.11. Sale of Bonds; Ratification of Execution of Loan Agreement with Authority. The Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement and Supplemental Loan Agreement. If not so authorized by previous resolution, any Authorized Officer is specifically authorized and directed to execute the Loan Agreement and Supplemental Loan Agreement and the Secretary is directed to affix the seal of the District, attest the same and deliver the Loan Agreement and the Supplemental Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved. The District may approve any supplements or amendments to the Loan Agreement or Supplemental Loan Agreement by a Supplemental Resolution.

Section 3.12. "Amended Schedule A" Filing; Tender of Series B Bond. Upon completion of the acquisition and construction of the Project, the District will file with the

Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor. In the event such schedule reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess, the Authority may tender the Series B Bond to the District for payment in an amount equal to such excess.

ARTICLE IV

BOND PROCEEDS; REVENUES; FUNDS; AND ACCOUNTS

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by, the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Construction Trust Fund.
- (4) Earnings Fund.
- (5) Rebate Fund.

Section 4.02. Establishment of Funds and Accounts with Bond Commission. The following special funds or accounts are hereby established with the Bond Commission:

- (1) Series A Sinking Fund;
 - (a) Within the Series A Sinking Fund, the Series A Bond Reserve Account;
 - (b) Within the Series A Sinking Fund, the Bonds Capitalized Interest Account.
- (2) Series B Sinking Fund;
 - (a) Within the Series B Sinking Fund, the Series B Bond Reserve Account.

Section 4.03. Revenues; Funds and Accounts.

A. The Gross Revenues from the operation of the System shall be deposited upon receipt with the Depository Bank in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Resolution and shall be kept separate and distinct from all other funds of the District and used solely for the purposes and in the manner herein provided. All revenues on deposit each month in the Revenue Fund shall first be used to pay all reasonable Operating Expenses of the System. Thereafter, disbursements shall be made from the Revenue Fund in the order and priority set forth in Subsections B, C, D, E and F of this Section 4.03 and shall be used only for the purposes and in the manner herein provided.

B. (1) On the first day of each month, beginning on the first day of that month which is seven months prior to the first interest payment date on which interest is to be paid on the Series A Bond for which interest has not been capitalized, the District shall apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Series A Sinking Fund a sum equal to one-sixth of the amount of interest which will become due on the Series A Bond on the next ensuing semiannual interest payment date; provided, that "next ensuing semiannual interest payment date" shall not refer to the interest payment date on which any such deposit is made. In the event the period to elapse between the date of such initial deposit in the Series A Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, at least one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(2) On the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment date of the Series A Bond, the District shall apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Series A Sinking Fund, a sum equal to one-twelfth of the amount of principal which will mature and become due on the Series A Bond on the next ensuing principal payment date; provided, that "next ensuing principal payment date" shall not refer to the principal payment date on which any such deposit is made. In the event the period to elapse between the date of such initial deposit in the Series A Sinking Fund and the next annual principal payment date is less than 13 months, then such monthly payments shall be increased proportionately to provide, at least one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(3) To the extent the District has not funded the Series A Bond Reserve Account with Bond proceeds or otherwise upon the issuance of the Series A Bond, the District shall next, from the Revenue Fund, remit to the Bond Commission for deposit in the Series A Bond Reserve Account on the first day of each month of each year, beginning with and including the month in which the payments required by Section 4.03 B (2) are commenced, an amount equal to 1/120th of the Series A Bond Reserve Account Requirement; provided that no further payments shall be made into the Series A Bond 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 A Bond Reserve Account Requirement.

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

Any withdrawals from the Series A Bond Reserve Account shall be subsequently restored from the first Net Revenues available after all required payments to the Series A Sinking Fund and Series A Bond Reserve Account, including any deficiencies for prior payments, have been made in full.

C. On the first day of each month, beginning with the first month in which interest on the Series A Bond shall be payable from the Revenue Fund, the District shall apportion and set apart out of the Revenue Fund and transfer to the Depository Bank, for deposit in the Renewal and Replacement Fund a sum equal to 2-1/2% of Gross Revenues, less any amount transferred to the respective reserve accounts received during the previous month. All funds in the Renewal and Replacement Fund shall be kept separate and distinct from all other funds of the District and the Depository Bank.

Withdrawals and disbursements from the Renewal and Replacement Fund shall be made by the District only for the following purposes:

(1) For the payment of the reasonable costs of replacements, emergency repairs, improvements or extensions to the System;

(2) For the payment of the then payable principal of, premium, if any, and interest on the Series A Bond if there are not sufficient funds therefor in the Series A Sinking Fund (including the Series A Bond Reserve Account); and

(3) To make up any deficiency in the Series A Bond Reserve Account (so that the amount on deposit therein is at least equal to the Series A Bond Reserve Account Requirement), subject to the provisions of Section 4.03 B hereof;

D. The District shall restore any withdrawals from the Series A Bond Reserve Account which have the effect of reducing the value of the funds therein below the Series A Bond Reserve Account Requirement, first from moneys then remaining in the Revenue Fund and next from funds deposited in the Renewal and Replacement Fund and then from the first Net Revenues available after all required deposits to the Series A Sinking Fund, including deposits in respect of deficiencies for prior deposits, have been made in full.

E. (1) On the first day of each month, beginning on the first day of that month which is 13 months prior to the first principal payment date of the Series B Bond, the District shall apportion and set apart out of the Revenue Fund and remit to the Bond Commission for deposit in the Series B Sinking Fund a sum equal to one-twelfth of the amount of principal which will mature and become due on the Series B Bond on the next ensuing principal payment date; provided, that "next ensuing principal payment date" shall not refer to the principal payment date on which any such deposit is made. In the event the period to elapse between the date of such initial deposit in the Series B Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, at least one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(2) To the extent the District has not funded the Series B Bond Reserve Account with Bond proceeds, the District shall next, from the Revenue Fund, remit to the Bond Commission for deposit in the Series B Bond Reserve Account on the first day of each month of each year, beginning with and including the month in which the payments required by Section 4.03E(1) are commenced, an amount equal to 1/120th of the Series B Bond Reserve Account Requirement; provided that no further payments shall be made into the Series B Bond 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 B Bond Reserve Account Requirement.

Moneys in the Series B Bond Reserve Account shall be used only for the purpose of paying the principal of the Series B Bond as the same shall become due, when other moneys in the Series B Sinking Fund are insufficient therefor, and for no other purpose.

Any withdrawals from the Series B Bond Reserve Account shall be subsequently restored from the first Net Revenues available after all required payments to the Series A Sinking Fund, Series A Bond Reserve Account, Renewal and Replacement Fund, Series B Sinking Fund and Series B Bond Reserve Account, including any deficiencies for prior payments, have been made in full.

F. On such dates as the Bond Commission shall require, the District shall remit to the Bond Commission such additional sums from the Revenue Fund as shall be necessary to pay the fiscal agency charges due for paying the Bonds and the interest thereon, if any.

Pending such application, moneys in the Revenue Fund shall be invested in accordance with Article VI hereof.

Moneys on deposit in the Series A Sinking Fund shall be used only for the purposes of paying the principal of and the interest on the Series A Bond as the same shall become due. Moneys on deposit in the Series B Sinking Fund shall be used only for the purpose of paying principal of the Series B Bond as the same shall become due.

The District shall not be required to make further deposits into the Series A Sinking Fund and the Series A Bond Reserve Account therein and the Series B Sinking Fund and the Series B Bond Reserve Account therein when the sums of cash, Government Obligations and interest to be earned on such Government Obligations, without reinvestment in the respective Sinking Funds and Reserve Accounts therein, is at least equal to the aggregate principal amount of Bonds then Outstanding plus the amount of interest due or thereafter to become due thereon.

As and when additional bonds are issued, provision shall be made for additional deposits into the respective Sinking Funds sufficient to pay the interest, if any, on such additional bonds and accomplish retirement thereof at or before maturity and to accumulate a balance in the appropriate reserve account in an amount equal to the maximum provided and required to be paid into the concomitant sinking fund in any year for account of the bonds of such series, including such additional bonds which by their terms are payable from such sinking fund.

Deposits into the respective Series A Sinking Fund and Series B Sinking Fund shall be made on the first day of each month, except that, when the first day of any month shall be a Saturday, Sunday or legal holiday, then such deposit shall be made on the next succeeding business day. All such deposits

shall be remitted to the Bond Commission with appropriate instructions, consistent with the provisions of this Resolution, as to the custody, use and application of the funds deposited.

G. All investment earnings on moneys in the several Sinking Funds and Reserve Accounts shall be returned, not less than once each year, by the Commission to the District, and such amounts shall, during construction of the Project, be deposited in the Construction Trust Fund and following completion of the construction of the Project, shall be deposited in the Revenue Fund and applied in full, first, to the next ensuing interest payment, if any, due on the respective series of Bonds, and then to the next ensuing principal payments or prepayments due thereon.

H. Whenever all the required transfers and deposits from the Revenue Fund have been made and there remains on deposit in the Revenue Fund an amount exceeding the amount estimated to be required to be paid for Operating Expenses during the then current Fiscal Year and the next ensuing Fiscal Year, as determined by resolution of the Board, such Surplus Revenue may be transferred to the Renewal and Replacement Fund or used for any lawful purpose of the System, or payment on other obligations junior, subordinate and inferior to the Series A Bond and the Series B Bond as directed by the Board.

I. If on any payment date Net Revenues are insufficient to make the transfers and deposits hereinabove provided, the deficient transfer or deposit shall be corrected on the next ensuing payment date by payments in addition to the payments otherwise required to be made on such payment date.

J. The Bond Commission hereby is designated as the fiscal agent for the administration of the Series A Sinking Fund and the Series B Sinking Fund. All amounts to be deposited into the respective Sinking Funds shall be remitted by the District to the Bond Commission, as provided herein. All such remittances shall identify clearly the fund or account into which such remittance is to be deposited.

K. Funds on deposit in the Revenue Fund, excess Bond proceeds and the Renewal and Replacement Fund in excess of the amount insured by the FDIC shall be secured at all times to the full extent of such excess by such Qualified Investments as are eligible under the laws of the State to secure deposits of municipal funds.

L. Gross Revenues will be used only for the lawful purposes of the System.

Section 4.04. Construction Trust Fund. The Construction Trust Fund shall be segregated from all other funds and accounts of the Depository Bank or the District and used solely for the purposes provided herein.

Disbursements from the Construction Trust Fund, except for the costs of issuance of the Series A Bond and Series B Bond which shall be made upon request of the District, shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

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

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

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

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

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Construction Trust Fund may be invested and reinvested in Qualified Investments at the discretion of the District.

After completion of the Project, as certified by the Consulting Engineers, any moneys remaining in the Construction Trust Fund shall be applied to (i) the Series A Bond Reserve Account up to the amount of the Series A Bond Reserve Account Requirement; (ii) the Series B Bond Reserve Account up to the amount of the Series B Bond Reserve Account Requirement, and (iii) any remaining amount to the Revenue Fund, with the District to apply such moneys in full first, to the next

ensuing interest payment due on the Series A Bond, second, to the next ensuing principal payment due on the Series A Bond, and third, to the next ensuing principal payment due on the Series B Bond. Notwithstanding the foregoing, if the Authority tenders any Series B Bond to the District pursuant to the provisions of the Supplemental Loan Agreement, such moneys shall be applied to the purchase of such Series B Bond.

Section 4.05. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of the Series A Bond and Series B Bond, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series A Bond and the Series B Bond there shall first be paid any and all borrowings by the District made for temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment.

B. From the proceeds of the Series A Bond, there shall be deposited with the Bond Commission in the Bond Capitalized Interest Account, the amount, if any, specified in a Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series A Bond for the period commencing on the date of issuance of the Series A Bond and ending six (6) months after the estimated date of completion of construction of the Project.

C. Next, from the proceeds of the Series A Bond, there shall be deposited with the Bond Commission in the Series A Bond Reserve Account and from the proceeds of the Series B Bond there shall be deposited with the Bond Commission in the Series B Bond Reserve Account the respective sums, if any, set forth in a Supplemental Resolution for funding of the Series A Bond Reserve Account, and the Series B Bond Reserve Account.

D. The remaining moneys derived from the sale of the Series A Bond and the Series B Bond shall be deposited with the Depository Bank in the Construction Trust Fund and applied solely to payment of the Cost of the Project in the manner set forth in Section 4.04 above.

E. The Depository Bank shall act as a trustee and fiduciary for the holder of the Series A Bond and the Series B Bond, with respect to the Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Construction Trust Fund set forth in this Resolution. Moneys in the Construction Trust Fund shall be

used solely to pay the Cost of the Project and until so expended, are hereby pledged as additional security for the Series A Bond and thereafter for the Series B Bond.

ARTICLE V

ADDITIONAL COVENANTS OF THE DISTRICT

Section 5.01. General Covenants of the District. All the covenants, agreements and provisions of this Resolution shall be and constitute valid and legally binding covenants of the District and shall be enforceable in any court of competent jurisdiction by any holder or holders of the Bonds, as prescribed in Article VII hereof. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, for as long as any Bonds remain Outstanding.

Section 5.02. Bonds Not to be Indebtedness of the District. The Bonds shall not be or constitute an indebtedness of the District within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Resolution. No holder or holders of any Bonds, shall ever have the right to compel the exercise of the taxing power, if any, of the District to pay said Bonds or the interest thereon.

Section 5.03. Bonds Secured by Pledge of Net Revenues, Funds and Unexpended Bond Proceeds. The payment of the debt service on the Series A Bond issued hereunder shall be secured forthwith by a first lien on and pledge of the Net Revenues and the payment of the debt service on the Series B Bond issued hereunder shall be secured forthwith by a lien on and pledge of the Net Revenues, but such lien shall be junior and subordinate to the lien on the Net Revenues in favor of the holder of the Series A Bond. Net Revenues in an amount sufficient to pay the principal of, premium, if any, and interest on first, the Series A Bond, and second, the Series B Bond, if any, and to make the deposits into the respective Sinking Funds and all other payments provided for in this Resolution, and the funds on deposit in the respective Sinking Funds, the Renewal and Replacement Fund are pledged irrevocably hereby in the manner provided in this Resolution to the payment of the principal of, premium, if any, and interest, if any, on first, the Series A Bond, and second, the Series B Bond, as the same becomes due and for the other purposes provided in this Resolution. The District hereby pledges the unexpended proceeds, if any, of each series of Bonds as additional

security for payment of the principal of, premium, if any, and interest, if any, on first, the Series A Bond, and second the Series B Bond, until expended in accordance with the provisions of this Resolution.

Section 5.04. Rates. Just and equitable rates and charges for the use of and the service rendered by the System shall be established, all in the manner and form required by law, and copies of such rates and charges so fixed and established at all times shall be kept on file in the offices of the District, open to inspection by all interested parties. The schedule of rates and charges shall produce in each year Gross Revenues sufficient to make the required payments into the funds and accounts created hereunder and to pay Operating Expenses. Such schedule of rates and charges shall be revised from time to time, whenever necessary, so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant with a margin for contingencies and temporary unanticipated reduction in income and revenues, the District hereby covenants and agrees that it will fix, establish and collect rates and charges which always shall provide Net Revenues along with all other revenues of the System after paying all Operating Expenses sufficient to leave a balance each year equal to not less than one hundred fifteen percent (115%) of the maximum annual amount required to pay the interest and principal as the same become due and accomplish retirement of all Bonds, and all other obligations secured by or payable from the Net Revenues prior to or on a parity with the Bonds; provided that in the event that amounts equal to or in excess of the Reserve Account Requirements are on deposit in the respective Reserve Accounts and the reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirements therefor, the foregoing percentage may be adjusted by the District to one hundred ten percent (110%) of the maximum annual amount required to pay the principal of and interest on the Bonds and all other obligations secured by or payable from Net Revenues prior to or on a parity with the Bonds.

Section 5.05. Completion, Operation and Maintenance, Right of Access. The District will expeditiously complete the Project and will provide and maintain competent and adequate resident engineering services satisfactory to the District and the Authority for the supervision and inspection of the construction of the Project, and bearing the responsibility of assuring the construction conforms to the Plans and Specifications and shall require its resident engineer to certify to the Authority and the District at the completion of construction that construction is in accordance with the Plans

and Specifications. Upon completion of the construction, the District will operate and maintain the System in good condition and will operate the same as a revenue-producing enterprise in an efficient and economical manner in compliance with the water quality standards established by the West Virginia Department of Natural Resources, as well as all other State and Federal laws, regulations, orders, and standards, with qualified operating personnel properly certified, making expenditures for equipment and for the economical operation and maintenance thereof from Gross Revenues as provided in this Resolution. As long as the Authority shall hold the Bonds, the Authority and its duly authorized agents shall have the right at all reasonable times to enter upon the System to examine and inspect the same and shall, prior to, at and after completion of construction and commencement of operation of the System, have such rights of access to the System as may be reasonably necessary to accomplish all of the powers and rights of the Authority in respect of the System pursuant to the pertinent provisions of the Water Development Act.

Section 5.06. Sale of the System while the Bonds are Outstanding. As long as any of the Bonds are Outstanding, the System may be sold, mortgaged, leased or otherwise disposed of only as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to defease the pledge created by this Resolution as provided by Sections 9.01 and 9.02 hereof. The proceeds from such sale, mortgage, lease or other disposition of the System immediately shall be remitted to the Bond Commission for deposit in the respective Sinking Funds, and with the written permission of the Authority, or in the event the Authority is no longer a holder of a Bond, the District shall direct the Bond Commission to apply such proceeds to the principal at maturity and interest on the Bonds. Any balance remaining after such payment and discharge shall be remitted to the District by the Bond Commission unless necessary for the payment of other obligations of the District payable out of Net Revenues.

Section 5.07. Additional Provisions Regarding the Sale of the System. The foregoing provisions notwithstanding, the District 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 District shall, by resolution, determine that such property

comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the District shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding or by transfer to another political subdivision 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 Authority, be remitted by the District to the Bond Commission for deposit in the Series A Bond Sinking Fund and shall be applied only to the purchase of the Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Series A Bond Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Resolution. No sale, lease or other disposition of the properties of the System shall be made by the District 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 holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The District shall prepare the form of such approval and consent for execution by the then holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 5.08. Issuance of Other Obligations Payable out of Net Revenues and General Covenant Against Encumbrances. As long as any Bonds are Outstanding, the District shall not issue any other obligations whatsoever payable from Net Revenues which, as to lien, security and source of payment, rank prior or equal to the Bonds; provided, however, that additional Bonds on a parity with the Series B Bond only may be issued as provided in Section 5.09 hereof.

All obligations issued by the District after the issuance of the Bonds and payable from the Net Revenues of the System, except such additional parity bonds provided for by Section 5.09 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 Series A Bond and the Series B Bond; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the respective Reserve Accounts, the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the District 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 thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Resolution or upon the System or any part thereof.

Section 5.09. Parity Bonds. A. No Parity Bonds, payable out of Net Revenues, shall be issued after the issuance of any Bonds pursuant to this Resolution, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series B Bond. No Parity Bonds shall be issued which shall be payable out of Net Revenues on a parity with the Series A Bond, unless the Series B Bond is no longer Outstanding.

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

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the secretary of the public service board of the District a written statement by the Independent Accountant, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after

the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (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 District and approved by the Public Service Commission of West Virginia, 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 Consulting Engineers, which shall be filed in the office of the secretary of the public service board of the District 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 Consulting Engineers and the said Independent Accountant, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Accountant, on account of increased rates, rentals, fees and charges for the System adopted by the District, the period for appeal of which has expired prior to the issuance of such Parity Bonds.

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

All covenants and other provisions of this Resolution (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the holders of the Bonds, and the holders of any Parity Bonds subsequently issued from time to time within the

limitations of and in compliance with this Section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond over any other Bond. The District shall comply fully with all the increased payments into the various funds and accounts created in this Resolution required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofor issued pursuant to this Resolution.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series A Bond and the Series B Bond, on such revenues. The District shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series A Bond or the Series B Bond.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Resolution with respect to the Bonds then Outstanding, and any other payments provided for in this Resolution, shall have been made in full as required to the date of delivery of such Parity Bonds, and the District shall then be in full compliance with all the covenants, agreements and terms of this Resolution.

B. Notwithstanding the foregoing, or any provision of Section 5.08 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 5.09 if there is first obtained by the District the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 5.10. Insurance; Construction and Fidelity Bonds; Workers' Compensation.

A. The District hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the District will, as an Operating Expense, procure, carry and maintain

insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) Fire, Lightning, Vandalism, Malicious Mischief and Extended Coverage Insurance, on all aboveground insurable portions of the System in an amount equal to the actual cost thereof. In time of war, the District will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The District will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the District, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during the construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the District, the contractors and subcontractors, as their interests may appear.

(2) Public Liability Insurance, with limits of not less than \$1,000,000 per occurrence to protect the District from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to property of others which may arise from the operation of the System, and insurance with the same limits to protect the District from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) Workers' Compensation coverage for all employees of or for the System eligible therefor.

(4) Performance and Payment Bonds, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the District, and such payment bonds will be filed with the Clerk of the County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with Chapter 38, Article 2, Section 39 of the Code of West Virginia of 1931, as amended.

(5) Fidelity Bonds for every officer or employee of the District having custody of any funds of the System in an amount at least equal to the total amount of funds in the custody of such officer or employee at any one time.

(6) Flood Insurance, to the extent available at reasonable cost to the District.

(7) Business Interruption Insurance, to the extent available at reasonable cost to the District.

B. The District shall also require all contractors engaged in the construction of the Project to carry such workers' compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the District, the prime contractor and all subcontractors, as their interests may appear.

Section 5.11. Service Rendered to the District. The District will not render or cause to be rendered any free services of any nature by the System; and, in the event the District or any department, agency, instrumentality, officer or employee of the District shall avail itself or himself of the facilities or services provided by the System or any part thereof, the same rates, fees or charges applicable to other

customers receiving like services under similar circumstances shall be charged the District and any such department, agency, instrumentality, officer or employee. Such charges shall be paid as they accrue, and the District shall transfer from its general funds sufficient sums to pay such charges. The revenues so received shall be deemed to be Gross Revenues and shall be deposited and accounted for in the same manner as other Gross Revenues.

Section 5.12. Enforcement of Collections. The District diligently will enforce and collect all fees, rates, rentals or other charges for the services and facilities of the System and take all steps, actions and proceedings for the enforcement and collection of such fees, rates, rentals or other charges as shall become delinquent to the full extent permitted or authorized by the Act or otherwise by the laws of the State. The District shall to the full extent permitted by applicable law and the rules and regulations of the West Virginia Public Service Commission discontinue and shut off the services and facilities of the System to all users of the service of the System delinquent in payment of charges for the services of the System. The District will not restore the services of the System until all such delinquent amounts, including reasonable interest and penalty charges for services of the System, have been paid in full. As provided in the Act, all fees, rates and charges of the District for water facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of State, county and school and municipal taxes. To the extent allowable under the Act, all other laws, and applicable rules and regulations of the Public Service Commission, the District will take reasonable steps to perfect such liens, and upon exhaustion of all other remedies to foreclose upon such premises in the manner required by Section 9a of the Act.

Section 5.13. No Competing Franchise. To the extent legally allowable, the District will not grant or cause, consent to or allow the granting of any franchise or permit to any person, firm, corporation or body, or agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 5.14. Books and Records. The District will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the District, in which complete and correct entries shall be made of all transactions relating to the System and the Costs of the Project, and any holder of Bonds and the Authority shall have

the right at all reasonable times to inspect the System, and all parts thereof, and all records, accounts and data of the District relating thereto. As long as the Authority shall hold the Bonds, the District shall submit to the Authority such documents and information as it may reasonably require in connection with the construction, acquisition and installation of the Project and the administration of the Bonds, or other sources of financing for the Project.

The accounting system for the System shall follow current generally accepted accounting principles, to the extent allowable under and in accordance with the rules and regulations of the Public Service Commission of the State and the Act. Separate control accounting records shall be maintained by the District. Subsidiary records as may be required shall be kept in the manner, on the forms, in the books and along with other bookkeeping records, as prescribed by the District. The District 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 District shall be reported to the Board and to such other agents of the District as the Board shall direct.

The District shall file with the Authority, and shall mail in each year to any holder of the Bonds, requesting the same, an annual report containing the following:

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

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

C. The amount of the Bonds, or other obligations Outstanding.

The District also, at least once a year, shall cause the books, records and accounts of the System to be completely audited by Independent Accountant, shall mail upon request, and make available generally, the report of the Independent Accountant, or a summary thereof, to any holder of the Bonds and shall file the report with the Authority. Said report shall be completed and made available within 120 days following the conclusion of each Fiscal Year. Such audit report shall specifically include a recital that the District is in compliance with the covenants and duties provided in this Resolution or the Loan Agreement and Supplemental Loan Agreement as applicable.

Section 5.15. Initial Schedule of Rates. The rates, fees and other charges for the use of the services and facilities of the System, established under a resolution enacted by the Board on or before the effective date of this Resolution and in full force and effect, or ordered by the Public Service Commission of the State, the time for appeal of such rates, fees and other charges having expired or been waived by any party who could so appeal, shall constitute the initial schedule, rates, fees and charges to be collected for use of the services and facilities of the System.

Section 5.16. Operating Budget. Annually, at least 30 days preceding the beginning of each Fiscal Year, the District shall prepare and adopt by resolution a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditure for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefore in such budget without a written finding and recommendation by the Consulting Engineers stating in detail the purpose of and necessity for such increased expenditure for the operation and maintenance of the System, and no such increased expenditure shall be made until the District has approved such finding and recommendation by a resolution duly adopted. No increased expenditure in excess of ten percent (10%) of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increase expenditures are necessary for the continued operation of the System. The District shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Authority and shall make available such budget and all such resolutions at all reasonable times to the Authority and, upon request, to any holder of the Bonds, or anyone acting for and in behalf of any such holder of the Bonds.

Section 5.17. Redemption of Bonds Held by Authority. As long as the Authority is the owner of any of the Series A Bond and Series B Bond Outstanding, the District shall not redeem any of such Series A Bond and Series B Bond Outstanding without the written consent of the Authority, and any such redemption of Series A Bond and Series B Bond authorized by the Authority shall provide for the payment of interest to the first allowable redemption date for the applicable water development revenue bonds, the redemption premium payable on the applicable water development revenue bonds redeemable as a consequence of such redemption of Series A Bond and Series B Bond and the costs and expenses of the Authority in effecting any such redemption, all as further prescribed by Section 9.11 of the General Resolution.

Section 5.18. Payment of Program Expenses. As long as the Bonds are held by the Authority, the District agrees to pay from time to time, as required by the Authority, the District's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be as determined by the Authority and shall include without limitation Program expenses and fees paid to the Trustee and paying agents for the water development revenue bonds. The District hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.06 of the General Resolution.

In the event the District defaults in the payment of any fees due to the Authority pursuant to this section, the amount of such default shall bear interest at the rate of five percent (5%) per annum, from the date of default until the date of the payment thereof.

Section 5.19. Authority Rights on Default. As long as the Authority shall hold the Bonds, the District hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the District, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Water Development Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System; and the District hereby covenants and agrees that, if the Authority should hereafter have recourse to the rights and powers, the District shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority.

Section 5.20. Authority Approval of Federal Pollution Abatement Assurance. The District hereby covenants and agrees to secure approval of the Authority and all other State agencies having jurisdiction before hereafter applying for federal financial assistance for pollution abatement.

Section 5.21. Tax Covenants. The District hereby further covenants, represents and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. (i) Not in excess of 10% of the Net Proceeds of the Bonds is used for private business use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a private business use or in payments in respect of property used or to be used for a private business use or is to be derived from payments,

whether or not to the District, in respect of property or borrowed money used or to be used for a private business use; and (ii) in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for private business use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said private business use or in payments in respect of property used or to be used for said private business use or is to be derived from payments, whether or not to the District, in respect of property or borrowed money used or to be used for said private business use, then said excess of said 5% of Net Proceeds of the Bonds used for a private business use shall be used for a private business use related to the governmental use of the Project.

B. PRIVATE LOAN LIMITATION. Not in excess of the lesser of 5% of the Net Proceeds of the Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting nonpurpose investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The District 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 of Regulations promulgated thereunder.

D. REPORTING REQUIREMENTS. The District will file all reports or statements necessary to insure the tax-exempt status of the Bonds, including without limitation, the information return required under Section 149(e) of the Code.

Section 5.22. Statutory Mortgage Lien. For the further protection of the holders of the Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding, shall take effect immediately upon delivery of the Bonds and shall be for the equal benefit of all holders of each respective series of the Bonds, provided however, that the statutory mortgage lien in favor of the holders of the Series A Bond shall be senior to the statutory mortgage lien in favor of the holders of the Series B Bond.

ARTICLE VI

INVESTMENTS: NON-ARBITRAGE

Section 6.01. Investments. The District shall invest and reinvest, and hereby instructs the Bond Commission and the Depository Bank to invest and reinvest, in Qualified Investments any moneys held as part of the funds and accounts created by this Resolution, other than the Revenue Fund, to the fullest extent possible subject to applicable laws and this Resolution, and the need for such moneys for the purposes set forth herein, and the specific restrictions and provisions set forth in this Section 6.01. The District may direct the Bond Commission and the Depository Bank in writing as to what particular permitted investments shall be made.

Except as otherwise provided herein or as provided below, any investment shall be held in and at all times be deemed a part of the fund or account in which the moneys and investments are held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the corresponding fund or account. The investments held by the Depository Bank shall be valued as of each January 1 and July 1 at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount or at par value if such investment is in the "Consolidated Fund"; provided, that no investment shall be sold or reduced by reason of the current market value exceeding the cost thereof. The Bond Commission or the Depository Bank, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of any loss on such liquidation. The District may invest funds on deposit with the Depository Bank through the trust department of the Depository Bank. The Depository Bank shall not be responsible for any losses from such investments, except losses due to its own gross negligence or willful misconduct.

Any Qualified Investments acquired for the Bond Capitalized Interest Account shall mature or be subject to redemption at the option of the holder at least one day prior to the date on which such moneys are required for transfer to the Paying Agent.

Qualified Investments acquired for the Renewal and Replacement Fund shall mature or be subject to redemption at the option of the holder within three years from the date of such investment.

Qualified Investments acquired for the Series A Bond Reserve Account and the Series B Bond Reserve Account shall mature or be subject to redemption at the option of the holder within five years from the date of such investment.

Section 6.02. Arbitrage. The District covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary, in view of the District's reasonable expectations at the time of issuance of the Bonds, so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the 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 6.03. Rebates of Excess Arbitrage Earnings to the United States. A. GENERAL COVENANT. The District hereby covenants to comply with all regulations from time to time in effect and applicable to the Bonds, as may be necessary in order to fully comply with Section 148(f) of the Code.

B. CREATION OF FUNDS. Notwithstanding the above, there are hereby created, to be held by the Depository Bank as separate funds distinct from all other funds and accounts held by the Depository Bank under this Resolution, the Earnings Fund and the Rebate Fund. All interest earnings and profits on amounts in all funds and accounts established under this Resolution, other than (i) interest earnings and profits on any funds referenced in Subsection C(5) of this Section if such earnings in any Bond Year are less than \$100,000, (ii) interest earnings and profits on amounts in funds and accounts which do not constitute Gross Proceeds, and (iii) interest earnings and profits on the Rebate Fund shall, upon receipt by the Depository Bank, be deposited in the Earnings Fund. In addition, all interest earnings and profits on Gross Proceeds in funds held by the District shall, upon receipt, be paid to the Depository Bank for deposit in the Earnings Fund. Annually, on the last day of each Bond Year or on the preceding business day in the event that such last day is not a business day, the Depository Bank shall transfer from the Earnings Fund to the Rebate Fund for purposes of ultimate payment to the United States an amount equal to Excess Investment Earnings,

all as more particularly described in this Section. Following the transfer referenced in the preceding sentence, the Depository Bank shall transfer all amounts remaining in the Earnings Fund to be used for the payment of Debt Service on the next interest payment date and for such purpose, Debt Service due from the District on such date shall be credited by an amount equal to the amount so transferred.

C. DUTIES OF DISTRICT IN GENERAL. The District shall calculate Excess Investment Earnings in accordance with Subsection C and shall assure payment of an amount equal to Excess Investment Earnings to the United States in accordance with Subsection E and F.

D. CALCULATION OF EXCESS INVESTMENT EARNINGS. Within 30 days following the last day of the first Bond Year, the District shall calculate, and shall provide written notice to the original holder of the Bonds and Depository Bank of, the Excess Investment Earnings referenced in clause (A) of the definition of Excess Investment Earnings. Thereafter, within 30 days following the last day of each Bond Year and within 30 days following the date of the retirement of the Bond, the District shall calculate, and shall provide written notice to the holder of the Bonds and Depository Bank of, the amount of Excess Investment Earnings. Said calculations shall be made or caused to be made by the District in accordance with the following:

(1) Except as provided in (2), in determining the amount described in clause A(i) of the definition of Excess Investment Earnings, the aggregate amount earned on Nonpurpose Investments shall include (i) all income realized under federal income tax accounting principles (whether or not the person earning such income is subject to federal income tax) with respect to such Nonpurpose Investments and with respect to the reinvestment of investment receipts from such Nonpurpose Investments (without regard to the transaction costs incurred in acquiring, carrying, selling or redeeming such Nonpurpose Investments), including, but not limited to, gain or loss realized on the disposition of such Nonpurpose Investments (without regard to when such gains are taken into account under Section 453 of the Code relating to taxable year of inclusion of gross income), and income under Section 1272 of the Code (relating to original issue discount) and (ii) any unrealized gain or loss as of the date of retirement of the Bonds in the event that any Nonpurpose Investment is retained after such date.

(2) In determining the amount described in clause (A) of the definition of Excess Investment Earnings, Investment Property shall be treated as acquired for its fair

market value at the time it becomes a Nonpurpose Investment, so that gain or loss on the disposition of such Investment Property shall be computed with reference to such fair market value as its adjusted basis.

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

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

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

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

and statements as may be prescribed by such Regulations. In the event that, for any reason, amounts in the Rebate Fund are insufficient to make the payments to the United States which are required by this Subsection E, the District shall assure that such payments are made by the District to the United States, on a timely basis, from any funds lawfully available therefor.

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

G. MAINTENANCE OF RECORDS. The District shall keep, and retain for a period of six (6) years following the retirement of the Bonds, records of the determinations made pursuant to this Section 6.03.

H. INDEPENDENT CONSULTANTS. In order to provide for the administration of this Section 6.03, the District and the Depository Bank (at the expense of the District) may provide for the employment of independent attorneys, accountants or consultants compensated on such reasonable basis as the District or the Depository Bank may deem appropriate.

I. REPORTS TO AUTHORITY. The District shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation and certificate with respect thereto or, if the District qualifies for the small governmental issue exception to rebate, or any other exception therefrom, then the District shall submit a certificate stating that it is exempt from such rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Series A Bond subject to rebate. The District shall also furnish to the Authority, at any time, such additional information relating to rebate as may be reasonably requested by the Authority.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.01. Events of Default. A. Occurrence of any of the following events shall constitute an "Event of Default" with respect to the Bonds:

1. Default in the due and punctual payment of the principal of, premium, if any, or interest on any Bond;
2. Default in the observance by the District of any of the covenants, agreements or conditions on its part in this Resolution or any Supplemental Resolution or in the Bonds, and continuance thereof for a period of 30 days after written notice specifying such default and requiring that the same be remedied shall have been given to the District or by any holder of the Bonds; or
3. The filing by the District of a petition seeking bankruptcy, reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America or of the State.

Section 7.02. Enforcement. Upon the occurrence and during the continuance of any Event of Default, any holder of the Bonds, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his rights. Without limiting the generality of the foregoing, a holder of the Bonds, may:

- A. Bring suit for any unpaid principal, premium or interest then due;
- B. By mandamus or other appropriate proceeding enforce all rights of the holders, including the performance by the District of its duties under the Act and this Resolution;
- C. Bring suit upon the Bonds;
- D. By action at law or bill in equity require the District to account as if it were the Trustee of an express trust for the holders of the Bonds; and
- E. By action or bill in equity enjoin any acts in violation of this Resolution or of the rights of the holders of the Bonds and provided that all rights and remedies of the holder of the Series B Bond shall be subject to those of the holder of the Series A Bond.

No remedy by the terms of this Resolution conferred upon or reserved to any holders of the Bonds, is intended to be exclusive of any other remedy, but each and every remedy shall be cumulative and shall be in addition to any other remedy given to the holders of any Bonds, hereunder or now or hereafter existing at law or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder by any holders of the Bonds shall extend to or affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Section 7.03. Appointment of Receiver. Any holder of a Bond may, by proper legal action, compel the performance of the duties of the District under this Resolution, any Supplemental Resolution and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If any Event of Default shall have occurred and be continuing, in addition to all other remedies or rights, any holder of the Bonds shall have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System on behalf of the District, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of the principal of, premium, if any, and interest, if any, on the Bonds, the deposits into the funds and accounts hereby established as herein provided and the payment of Operating Expenses, and to apply such rates, rentals, fees, charges and any other Gross Revenues in conformity with the provisions of this Resolution and the Act.

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

Whenever all that is due upon the Bonds, and interest thereon, if any, and under any covenants of this Resolution for the funds and accounts hereby established, and upon any other

obligations and interest thereon having a charge, lien or encumbrance upon the Net Revenues, 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 District upon the entry of an order of the court to that effect. Upon any subsequent Event of Default, any holder of the Bonds, shall have the same right to secure the further appointment of a receiver.

Such receiver, in the performance of the powers hereinabove conferred, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby and a successor receiver appointed at the direction 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 District and for the joint protection and benefit of the District and first the holders of the Series A Bond and second the holders of the Series B Bond. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System and the collection of rates and charges related to the services now provided by the System for the sole purpose of the protection of both the District and first the holders of the Series A Bond and second the holders of the Series B Bond, and the curing and making good of any default under the provisions of this Resolution, and the title to and ownership of the System shall remain in the District, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage or otherwise dispose of any assets of the System.

Section 7.04. Restoration of District and Holder of the Bonds. In case any holder of the Bonds shall have proceeded to enforce any right under this Resolution by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the claims of such holder of the Bonds, then and in every such case the District and such holder shall be restored to their former positions and rights hereunder, and all rights and remedies of such holder of the Bonds, shall continue as if no such proceedings had been taken, subject to such adverse determination as the court in such proceedings shall have made.

ARTICLE VIII

REGISTRAR; PAYING AGENT

Section 8.01. Appointment of Registrar. The Registrar and the Paying Agent of the Bonds shall be appointed by the enactment of a Supplemental Resolution hereto.

ARTICLE IX

DEFEASANCE; DISCHARGE OF PLEDGE

Section 9.01. Defeasance of Series A Bond. If the District shall pay or cause to be paid, or there shall otherwise be paid, to the holder of the Series A Bond, the principal of, premium, if any, and interest, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then with respect to the Series A Bond only, the pledge of Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the District on behalf of the holder of the Series A Bond, made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds, for the payment of which either moneys in an amount which shall be sufficient, or Government Obligations the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of, premium, if any, and interest on such Series A Bond, shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. Prior to the maturity thereof, the Series A Bond shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section if there shall have been deposited with the Bond Commission either moneys in an amount which shall be sufficient, or Government Obligations the principal of and the interest on which, when due, without reinvestment, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission at the same or earlier time will be sufficient, to pay when due the principal of, premium, if any, and interest, if any, due and to become due on the Series A Bond, on and prior to the maturity date thereof. Neither Government Obligations nor moneys deposited with the Bond Commission pursuant to this Section,

nor principal or interest payments on any such Government Obligations, shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of, premium, if any, and interest, if any, on the Series A Bond; provided, that any cash received from such principal or interest payments on such Government Obligations deposited with the Bond Commission if not then needed for such purpose, to the extent practicable shall be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of, premium, if any, and interest, if any, to become due on the Series A Bond, on and prior to the maturity dates thereof and interest earned from such reinvestments shall be paid over to the District as received by the Bond Commission or its agent, free and clear of any trust, lien or pledge.

Section 9.02. Defeasance of Series B Bond. If the District shall pay or cause to be paid, or there shall otherwise be paid, to the respective holder of the Series B Bond, the principal of and premium, if any, due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then with respect to the Series B Bond only, the pledge of Net Revenues and other moneys and securities pledged hereunder, and all covenants, agreements and other obligations of the District on behalf of the holders of the Series B Bond, made hereunder, shall thereupon cease, terminate and become void and be discharged and satisfied.

Bonds, for the payment of which either moneys in an amount which shall be sufficient, or Government Obligations the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agent at the same or earlier time, shall be sufficient, to pay as and when due the respective principal of and premium, if any, on such Series B Bond, shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section. Prior to the maturity thereof, the Series B Bond shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this Section if there shall have been deposited with the Bond Commission either moneys in an amount which shall be sufficient, or Government Obligations the principal of and the interest on which, when due, without reinvestment, will provide moneys which, together with the moneys, if any, deposited with the Bond Commission at the same or earlier time will be sufficient, to pay when due the principal of and premium, if any, due and to become due on the Series B Bond, on and prior to the maturity date thereof. Neither Government Obligations nor moneys deposited with the Bond Commission pursuant to this Section, nor principal or interest payments on

any such Government Obligations, shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal of and premium, if any, on the Series B Bond; provided, that any cash received from such principal or interest payments on such Government Obligations deposited with the Bond Commission if not then needed for such purpose, to the extent practicable shall be reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal of and premium, if any, to become due on the Series B Bond, on and prior to the maturity dates thereof and interest earned from such reinvestments shall be paid over to the District as received by the Bond Commission or its agent, free and clear of any trust, lien or pledge.

ARTICLE X

MISCELLANEOUS

Section 10.01. Amendment of Resolution. No amendment or modification to this Resolution or to any Supplemental Resolution which is materially adverse to the holder of any Bond may be made without the prior written consents, filed with the Secretary of the Board before any such modification or amendment may be made, of the holders of sixty percent in aggregate principal amount of the Bonds then Outstanding. No such modification or amendment shall extend the maturity of or reduce the interest rate on, or otherwise alter the terms of payment of the principal of, premium, if any, or interest on any Bond, without the express written consent of the holder of such Bond, nor reduce the percentage of Bonds required for consent to any such modification or amendment. Notwithstanding the foregoing, this Resolution may be amended without the consent of any holders of the Bonds 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 from gross income for Federal income taxation of interest on the Bonds.

Section 10.02. Evidence of Signatures of Holders and Ownership of Bonds. Any request, consent, revocation of consent or other instrument which this Resolution may require or permit to be signed and executed by the holder of any Bonds, may be in one or more instruments of similar tenor, and shall be signed or executed by such holders in person or by their attorneys duly authorized in writing. Proof of the execution of any such instrument, or of an instrument appointing or authorizing any such attorney, shall be sufficient for any

purpose of this Resolution if made in the following manner, or in any other manner satisfactory to the District or the Registrar, as the case may be, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable.

A. The fact and date of the execution by any holder or his attorney of any such instrument may be proved (i) by the certificate of a notary public or other officer authorized to take acknowledgements of deeds to be recorded in the jurisdiction in which he purports to act that the person signing such instrument acknowledged to him the execution thereof, or by the affidavit of a witness of such execution, duly sworn before such a notary public or other officer, or (ii) by the certificate, which need not be acknowledged or verified, of an officer of a bank, trust company or financial firm or corporation satisfactory to the District or the Registrar, as the case may be, that the person signing such instrument acknowledged to such bank, trust company, firm or corporation the execution thereof.

B. The authority of a person or persons to execute any such instrument on behalf of a corporate holder of any Bonds may be established without further proof if such instrument is signed by a person purporting to be the president or treasurer or a vice-president or an assistant treasurer of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or assistant secretary.

C. The amount of Bonds held by a person executing any instrument as a holder of any Bonds, the date of his holding such Bonds, and the numbers and other identification thereof, shall be confirmed by the Register.

Any request, consent or other instrument executed by the holder of any Bond shall bind all future holders and owners of any Bond, in respect to anything done or suffered to be done hereunder by the District or the Registrar in accordance therewith.

Section 10.03. Preservation and Inspection of Documents. To the extent allowed under law, all reports, certificates, statements and other documents received by the Registrar under the provisions of this Resolution shall be retained in its possession and shall be available at all reasonable times for the inspection of the District, the holders of any Bonds, their agents and representatives, but, at the election of the Registrar, any such reports, certificates, statements or other documents may be destroyed or otherwise

disposed of at any time after such date as the pledge created by this Resolution shall be discharged as provided in Article IX.

Section 10.04. Cancellation of the Bonds. All Bonds purchased or paid and surrendered to the District shall be cancelled and delivered to the Registrar, or if surrendered to the Registrar, shall be cancelled by it. No such cancelled Bonds shall be deemed Outstanding under this Resolution, and no Bonds shall be issued in lieu thereof. All such Bonds shall be cancelled and upon order of the District shall be destroyed, and a certificate evidencing such destruction shall be delivered to the District.

Section 10.05. Failure To Present Bonds. Anything in this Resolution to the contrary notwithstanding, any moneys held by the Bond Commission in trust for the payment and discharge of any of the Bonds which remain unclaimed for one year after the date on which such Bonds have become due and payable, whether by maturity or upon call for redemption, shall at the written request of the District be paid by the Bond Commission to the District as its absolute property and free from trust, subject to applicable law on escheat, and the Bond Commission thereupon shall be released and discharged with respect thereto, and the holders of such Bonds shall look only to the District for the payment of such Bonds; provided, however, that before making any such payment to the District, at the request of the Bond Commission the Registrar shall send to the holder by certified mail, at the address listed on the Register, a notice that such moneys remain unclaimed and that after a date stated in the notice, which date shall be not less than 30 days after the date on which such notice is mailed, the balance of such moneys then unclaimed will be returned to the District.

Section 10.06. Notices, Demands and Requests. Unless otherwise expressly provided, all notices, demands and requests to be given or made hereunder to or by the District, the Registrar or the Depository Bank shall be in writing and shall be properly made if sent by United States mail, postage prepaid, and addressed as follows or if hand-delivered to the individual to whom such notice, demand or request is required to be directed as indicated below:

A. The District:

Lubeck Public Service District
Post Office Box 700
Washington, West Virginia 26181
Attention: Chairman of the Public
Service Board; and to

B. Registrar - as shall be set out in
the Supplemental Resolution

C. Depository Bank:

One Valley Bank, National Association
Post Office Box 1793
Charleston, West Virginia 25362

D. Authority:

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Any party listed above may change the address given for it at any time upon written notice thereof sent by United States mail, postage prepaid, to the other parties.

Section 10.07. Conflicting Provisions Repealed. All orders or resolutions and or parts thereof in conflict with the provisions of this Resolution are to the extent of such conflict hereby repealed.

Section 10.08. No Personal Liability. No member of the Board of the District or official or employee of either shall be individually or personally liable for the payment of the principal of, premium, if any, or interest on any Bond, as the case may be, but nothing herein contained shall relieve any such member, official or employee of any duty provided by law or this Resolution.

Section 10.09. Law Applicable. The laws of the State shall govern the construction of this Resolution and all Bonds issued hereunder.

Section 10.10. Parties Interested Herein. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or give to, any person or corporation, other than the District, the Registrar, the Paying Agent, the Bond Commission, the Depository Bank, the holders of the Bonds, and the Authority, any right, remedy or claim under or by reason of this Resolution. All the covenants, stipulations, promises and agreements contained in this Resolution by and on behalf of the District shall be for the sole and exclusive benefit of the District, the Registrar, the Paying Agent, the Bond Commission, the Depository Bank, the holders of the Bonds, and the Authority.

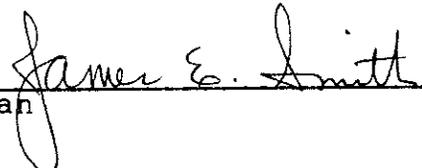
Section 10.11. Severability of Invalid Provisions.
If any section, paragraph, clause or provision of this Resolution shall be held invalid, such invalidity shall not affect any of the remaining provisions of this Resolution.

Section 10.12. Table of Contents and Headings. The Table of Contents and headings of the articles and sections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

Section 10.13. Effective Date. This Resolution shall take effect immediately upon adoption.

Adopted this 28th day of March, 1990.

LUBECK PUBLIC SERVICE DISTRICT,


Chairman

6804P

EXHIBIT A

[Description of the Project]

The public service properties to be constructed will consist of a 2.4 million gallon per day water treatment plant, two water supply wells, equipment of six water supply wells, a 200,000 gallon water storage tank, a 200 gallon per minute booster station, 6,600 feet of water main and other appurtenances within the territorial boundaries of the District. The properties will be located in Lubeck Magisterial District of Wood County, West Virginia.

EXHIBIT B

[FORM OF SERIES A BOND]

No. R-1

\$ _____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
WATER SYSTEM REVENUE BOND, SERIES A

Original
Issuance
Date

Interest
Rate

Bond Date

Registered Owner: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
Principal Sum: \$ _____

LUBECK PUBLIC SERVICE DISTRICT, a public service district organized and existing under the laws of the State of West Virginia (the "District"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, the Principal Sum specified above to the Registered Owner named above or registered assigns (the "Registered Owner"), in the following principal installments on _____ of each of the following years:

Year Principal Installment Year Principal Installment

[TO BE INSERTED]

The District further hereby promises solely from such special funds also to pay interest on the outstanding principal balance of this Series A Bond from the Bond Date specified above at the Interest Rate per annum specified above semiannually, on the first day of _____ and the first day of _____ in each year, beginning _____.

The principal of this Series A Bond, and the premium hereon, if any, are payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of public and private debts under the laws of the United States of America at the office of the West Virginia Municipal Bond Commission as paying agent (the "Paying Agent"). Interest will be paid to the registered owner as of the close of business on the Record Date for such interest payment, which shall be the

fifteenth day (whether or not a business day) of the calendar month next preceding such interest payment date. Interest shall be paid by check or draft mailed to the address of such Registered Owner at the address as it appears on the books of the _____ as Registrar (the "Bond Register"), or by such other method as shall be mutually agreeable as long as the Authority is the Registered Owner hereof.

This Series A Bond is the duly authorized Series A Bond (herein referred to as the "Series A Bond") issuable under the Bond Resolution of the District, and pursuant to which this Series A Bond is issued, in the principal amount of \$ _____ and pursuant to which the Series B Bond in the principal amount of \$ _____ is issued, and is issued for the purpose of assisting the District in the permanent financing of costs of acquiring, constructing and installing water treatment, storage and distribution facilities, capitalizing interest during the construction period and for six months thereafter, funding a debt service reserve account, and paying costs of issuance and other costs incidental thereto and to the financing thereof (the "Project"), located within the boundaries of Wood County, West Virginia, all 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 of 1931, as amended (the "Act"), the Resolution duly enacted by the Public Service Board of the District on the _____ day of _____, 19____, as supplemented by a supplemental resolution duly enacted by the Public Service Board of the District on the _____ day of _____, 19____ (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, which bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Series A Bond under the Resolution.

This Series A Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with the Loan Agreement between the District and the Authority executed by the District on _____, 19____, as supplemented and amended.

This Series A Bond is issued contemporaneously with the Water System Revenue Bond Series B of the District (the "Series B Bond"), issued in the aggregate principal amount of \$ _____, which Series B Bond is junior and subordinate with respect to liens and sources of security for payment to the Series A Bond.

This Series A Bond and the interest thereon are payable only from and are secured by a first lien on and pledge of the Net Revenues derived from the System, all funds in the Series A Sinking Fund, established under the Resolution, and the unexpended proceeds of the Series A Bond, and the District hereby and in the Resolution pledges such Net Revenues and funds to such payment, and the Net Revenues of the System shall be set aside as a special fund hereby pledged for such purpose. Such Net Revenues shall be sufficient to pay the principal of, premium, if any, and interest on all bonds issued pursuant to the Resolution and which shall be set aside as a special fund hereby pledged for such purpose. This Series A Bond does not constitute a corporate indebtedness of the District within the meaning of any statutory or constitutional limitation, nor shall the District be obligated to pay the same or the interest hereon except from the special fund provided from the Net Revenues of the System, all moneys in the Series A Bond Reserve Account and unexpended Series A Bond proceeds. Under the Resolution, the District has covenanted and agreed to fix, establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least one hundred fifteen percent (115%) of the amount required to pay the maximum amount due in any year of principal of and interest on the Series A Bond, the Series B Bond, and all other obligations secured by or payable from such revenues prior to or on a parity with the Series A Bond or the Series B Bond, provided however, that as long as there exists in the Series A Bond Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Series A Bond in the then current or any succeeding year, and in the respective reserve accounts established for the Series B Bond and any other obligations outstanding prior to or on a parity with the Series A Bond or the Series B Bond, an amount at least equal to the respective requirement therefor, such percentage may be reduced to one hundred ten percent (110%). The District has entered into certain further covenants with the Registered Owner of this Series A Bond, for the terms of which reference is made to the Resolution. Remedies provided the Registered Owner of this Series A Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof. Subject to the registration requirements set forth herein, this Bond is transferrable, as provided in the Resolution, only upon the books of _____, as registrar (the "Registrar") by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of this Series A Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

All moneys received from the sale of the Series A Bond shall be applied solely to pay Costs of the Project as provided in the Resolution, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owner of the Series A Bond.

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

This Series A Bond, under the provisions of the Act, is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only by transfer of registration hereof with the Registrar.

This Series A Bond shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose, until the Certificate of Authentication and Registration hereon shall have been manually signed by the Registrar.

All provisions of the Resolution and the statutes under which this Series A Bond is issued shall be deemed to be a part of the contract evidenced by this Series A Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, in the manner provided in the Resolution, The District has caused this Series A Bond to be signed by _____, the Chairman of its Public Service Board, and the seal of the District to be impressed hereon and attested by the Secretary, and has caused this Series A Bond to be dated as of the Bond Date shown above.

[SEAL]

Chairman Public Service Board

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Resolution and has been duly registered in the name set forth above on the date set forth below.

_____'
As Registrar

Date: _____

By: _____'
Its Authorized Officer

ASSIGNMENT

For value received, the undersigned Registered Owner do(es) hereby sell, assign and transfer unto _____

(name, address and social security number or other identifying number of assignee) the within Bond and hereby irrevocably constitute(s) and appoint(s) _____ to transfer the Bond on the books kept for registration of the within Bond with full power of substitution in the premises.

Date: _____

Registered Owner

Signature Guaranteed: _____

Notice: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of this Bond in every particular, without alteration or any change whatsoever.

EXHIBIT C

[FORM OF SERIES B BOND]

No. R-1

\$ _____

UNITED STATES OF AMERICA
STATE OF WEST VIRGINIA
LUBECK PUBLIC SERVICE DISTRICT
WATER SYSTEM REVENUE BOND, SERIES B

Original
Issuance
Date

Interest
Rate

Bond Date

0.00%

Registered Owner: WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
Principal Sum: \$ _____

LUBECK PUBLIC SERVICE DISTRICT, a public service district organized and existing under the laws of the State of West Virginia (the "District"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, the Principal Sum specified above without interest to the Registered Owner named above or registered assigns (the "Registered Owner"), in the following principal installments on _____ of each of the following years:

<u>Year</u>	<u>Principal Maturing</u>	<u>Year</u>	<u>Principal Maturing</u>
-------------	---------------------------	-------------	---------------------------

[TO BE INSERTED]

The principal of this Series B Bond, and the premium hereon, if any, are payable in any coin or currency which, on the date of payment thereof, is legal tender for the payment of public and private debts under the laws of the United States of America at the office of the West Virginia Municipal Bond Commission as paying agent (the "Paying Agent").

This Series B Bond is the duly authorized Series B Bond (herein referred to as the "Series B Bond") issuable under the Resolution of the District, and pursuant to which this Series B Bond is issued, in the principal amount of \$ _____ and pursuant to which the Series A Bond in the principal amount of \$ _____ (the "Series A Bond") is issued, and is issued for

the purpose of assisting the District in the permanent financing of costs of acquiring, constructing and installing water treatment, storage and distribution facilities, funding a debt service reserve account, and paying costs of issuance and other costs incidental thereto and to the financing thereof (the "Project"), located within the boundaries of Wood County, West Virginia. This Series B Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"), the Resolution duly enacted by the Public Service Board of the District on the _____ day of _____, 19___, as supplemented by supplemental resolution duly enacted by the Public Service Board of the District of the _____ day of _____, 19___ (collectively, the "Resolution"), and is subject to all the terms and conditions of the Resolution. The Resolution provides for the issuance of additional bonds under certain conditions, which bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Series B Bond under the Resolution.

This Series B Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with the Supplemental Loan Agreement between the District and the Authority executed by the District on _____, 19___, as supplemented and amended.

This Series B Bond is payable only from and is secured by a second lien on and pledge of the Net Revenues derived from the System after there has first been paid from such Net Revenues all payments then due and owing on account of the Series A Bond herein described, moneys in the Series B Bond Reserve Account created under this Resolution, and the unexpended proceeds of the Series B Bond. Such Net Revenues shall be sufficient to pay the principal of, premium, if any, and interest, if any, on all bonds issued pursuant to the Resolution and which shall be set aside as a special fund hereby pledged for such purpose. This Series B Bond does not constitute a corporate indebtedness of the District within the meaning of any statutory or constitutional limitation, nor shall the District be obligated to pay the same except from the special fund provided from the Net Revenues of the System, all moneys in the Series B Bond Reserve Account and unexpended Series B Bond proceeds. Under the Resolution, the District has covenanted and agreed to fix, establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least one

hundred fifteen percent (115%) of the amount required to pay the maximum amount due in any year of principal of and interest, if any, on the Series B Bond, the Series A Bond, and all other obligations secured by or payable from such revenues prior to or on a parity with the Series A Bond or the Series B Bond, provided however, that as long as there exists in the Series B Bond Reserve Account an amount at least equal to the maximum amount of principal which will become due on the Series B Bond in the then current or any succeeding year, and in the respective reserve accounts established for the Series A Bond and any other obligations outstanding prior to or on a parity with the Series A Bond or the Series B Bond, an amount at least equal to the respective requirements therefor, such percentage may be reduced to one hundred ten percent (110%). The District has entered into certain further covenants with the Registered Owners of the Series B Bond, for the terms of which reference is made to the Resolution. Remedies provided to the Registered Owners of the Series B Bond are exclusively as provided in the Resolution, to which reference is here made for a detailed description thereof. Subject to the registration requirements set forth herein, this Series B Bond is transferrable, as provided in the Resolution, only upon the books of _____,

as registrar (the "Registrar") by the Registered Owner, or by its attorney duly authorized in writing, upon the surrender of the Series B Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or its attorney duly authorized in writing.

All moneys received from the sale of the Series B Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to pay the Costs of the Project described in the Resolution, and there shall be, and hereby is, created and granted a lien upon such moneys, until so applied, in favor of the Registered Owners of the Series B Bond, which lien is subordinate to the lien in favor of the Registered Owner of the Series A Bond.

THIS SERIES B BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIENS, PLEDGES AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SERIES A BOND ISSUED CONCURRENTLY HERewith IN THE AGGREGATE PRINCIPAL AMOUNT OF \$ _____ DESCRIBED IN THE RESOLUTION.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this Series B Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Series B Bond, together with all other obligations of the District, does not exceed any limit prescribed by the

Constitution or statutes of the State of West Virginia, and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into the special funds by the District for the prompt payment of the principal of and premium, if any, on this Series B Bond.

This Series B Bond, under the provisions of the Act, is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may be transferred only by transfer of registration hereof with the Registrar.

This Series B Bond shall not be entitled to any benefit under the Resolution, or become valid or obligatory for any purpose, until the Certificate of Authentication and Registration hereon shall have been manually signed by the Registrar.

All provisions of the Resolution and the statutes under which this Series B Bond is issued shall be deemed to be a part of the contract evidenced by this Series B Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, in the manner provided in the Resolution, The District has caused this Series B Bond to be signed by _____, the Chairman of its Public Service Board, and the seal of the District to be impressed hereon and attested by the Secretary, and has caused this Series B Bond to be dated as of the Bond Date shown above.

[SEAL]

Chairman Public Service Board

ATTEST:

Secretary

CERTIFICATE OF AUTHENTICATION
AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Resolution and has been duly registered in the name set forth above on the date set forth below.

As Registrar

Date: _____

By: _____
Its Authorized Officer

ASSIGNMENT

For value received, the undersigned Registered Owner do(es) hereby sell, assign and transfer unto _____

(name, address and social security number or other identifying number of assignee) the within Bond and hereby irrevocably constitute(s) and appoint(s) _____ to transfer the Bond on the books kept for registration of the within Bond with full power of substitution in the premises.

Date: _____

Registered Owner

Signature Guaranteed: _____

Notice: The Assignor's signature to this Assignment must correspond with the name as it appears upon the face of this Bond in every particular, without alteration or any change whatsoever.

EXHIBIT D

LOAN AGREEMENT

See Transcript Item # 9.

EXHIBIT E

SUPPLEMENTAL LOAN AGREEMENT

See Transcript Item # 10.



LUBECK PUBLIC SERVICE DISTRICT
WATER SYSTEM REVENUE BONDS
SERIES A AND SERIES B

FIRST SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY, INTEREST RATE, PRINCIPAL PREPAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE WATER SYSTEM REVENUE BONDS SERIES A AND SERIES B OF LUBECK PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING AND ADOPTING THE RATES AND CHARGES AS ESTABLISHED BY THE WEST VIRGINIA PUBLIC SERVICE COMMISSION IN THE ORDER GRANTING THE DISTRICT A CERTIFICATE OF CONVENIENCE AND NECESSITY; AND MAKING OTHER PROVISIONS AS TO THE SERIES A AND SERIES B BONDS.

WHEREAS, the public service board (the "Board") of Lubeck Public Service District (the "District"), has duly and officially adopted a bond resolution, effective March 28, 1990 (the "Resolution"), entitled:

A RESOLUTION AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF a WATER TREATMENT PLANT AND AN EXTENSION TO THE EXISTING WATERWORKS SYSTEM IN THE LUBECK PUBLIC SERVICE DISTRICT, WOOD COUNTY, WEST VIRGINIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE LUBECK PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$3,285,500 IN AGGREGATE PRINCIPAL AMOUNT OF WATER SYSTEM REVENUE BONDS, SERIES A AND SERIES B; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER SYSTEM REVENUE BONDS; AUTHORIZING THE SALE OF SUCH WATER SYSTEM REVENUE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY BY SUPPLEMENTAL RESOLUTION; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Resolution provides for the issuance of the Water System Revenue Bonds Series A and Series B of the District (the "Bonds"), in a principal amount not to exceed \$3,285,500 and has authorized the execution and delivery of a Loan Agreement and a Supplemental Loan Agreement relating to the Bonds each executed by the District on February 7, 1990, by and between the District and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"); and in the Resolution it is provided that the exact principal amount, maturity date, interest rate, interest and principal prepayment schedule, sale price and other terms of the Bonds may be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds and to the Project be herein provided for;

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

WHEREAS, the Board deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted, that the exact principal amount, the price, the maturity date, the redemption provision, the interest rate and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds and to the Project be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD 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:

a. The Series A Bond designated R-1 shall be issued in the form of a single bond in typewritten form fully registered to the West Virginia Water Development Authority, in the denomination of \$3,139,013.00, with interest thereon at the rate of 7.85% per annum payable semi-annually on October 1 and April 1, first interest payable on October 1, 1990, representing the aggregate principal amount of the Series A Bond issue and shall mature in principal installments on October 1 of each year as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1991	\$ 13,648.00	7.85%
1992	14,720.00	7.85%
1993	15,876.00	7.85%
1994	17,122.00	7.85%
1995	18,466.00	7.85%
1996	19,915.00	7.85%

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1997	21,479.00	7.85%
1998	23,165.00	7.85%
1999	24,983.00	7.85%
2000	26,945.00	7.85%
2001	29,060.00	7.85%
2002	31,341.00	7.85%
2003	33,801.00	7.85%
2004	36,455.00	7.85%
2005	39,316.00	7.85%
2006	42,403.00	7.85%
2007	45,731.00	7.85%
2008	49,321.00	7.85%
2009	53,193.00	7.85%
2010	57,368.00	7.85%
2011	61,872.00	7.85%
2012	66,729.00	7.85%
2013	71,967.00	7.85%
2014	77,616.00	7.85%
2015	83,709.00	7.85%
2016	90,280.00	7.85%
2017	97,367.00	7.85%
2018	105,011.00	7.85%
2019	113,254.00	7.85%
2020	122,144.00	7.85%
2021	131,733.00	7.85%
2022	142,074.00	7.85%
2023	153,227.00	7.85%
2024	165,255.00	7.85%
2025	178,228.00	7.85%
2026	192,218.00	7.85%
2027	207,308.00	7.85%
2028	223,581.00	7.85%
2029	241,132.00	7.85%

b. The Series B Bond designated R-1 shall be issued in the form of single Bond in typewritten form, fully registered to the West Virginia Water Development Authority, in the denomination of \$146,487.00, without interest, representing the aggregate principal amount of the Series B Bond issue, and shall mature in principal installments on October 1, of each year after date as follows:

<u>Year</u>	<u>Installment</u>
1991	\$3,755.96
1992	3,756.08
1993	3,756.08
1994	3,756.08
1995	3,756.08
1996	3,756.08
1997	3,756.08
1998	3,756.08

<u>Year</u>	<u>Installment</u>
1999	3,756.08
2000	3,756.08
2001	3,756.08
2002	3,756.08
2003	3,756.08
2004	3,756.08
2005	3,756.08
2006	3,756.08
2007	3,756.08
2008	3,756.08
2009	3,756.08
2010	3,756.08
2011	3,756.08
2012	3,756.08
2013	3,756.08
2014	3,756.08
2015	3,756.08
2016	3,756.08
2017	3,756.08
2018	3,756.08
2019	3,756.08
2020	3,756.08
2021	3,756.08
2022	3,756.08
2023	3,756.08
2024	3,756.08
2025	3,756.08
2026	3,756.08
2027	3,756.08
2028	3,756.08
2029	3,756.08

c. The Bonds shall be subject to redemption prior to maturity to the extent, under the conditions and subject to the limitations set forth in the Loan Agreement and Supplemental Loan Agreement.

Section 2. The District hereby approves the sale of the Series A Bond and the Series B Bond to the Authority at the par value thereof.

Section 3. The District does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds, and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the District and the Registrar in substantially the form attached hereto, and the execution and delivery by the Chairman of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the District are hereby authorized, approved and directed.

Section 4. The District does hereby appoint and designate the West Virginia Municipal Bond Commission, Charleston, West Virginia, as Paying Agent for the Bonds.

Section 5. The District does hereby appoint and designate One Valley Bank, National Association, a national banking association, Charleston, West Virginia, as Depository Bank under the Resolution.

Section 6. The District does hereby approve and adopt the rates and charges as established by the West Virginia Public Service Commission in the Order granting the District a Certificate of Convenience and Necessity in Case No. 89-160-PWD-CN.

Section 7. Series A Bond proceeds in the amount of \$492,289 shall be deposited in the Bonds Capitalized Interest Fund within the Series A Sinking Fund, as capitalized interest.

Section 8. Series A Bond proceeds in the amount of \$260,062 shall be deposited in the Series A Bond Reserve Account within the Series A Sinking Fund.

Section 9. Series B Bond proceeds in the amount of \$3,756 shall be deposited in the Series B Bond Reserve Account within the Series B Sinking Fund.

Section 10. The Chairman and Secretary are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Resolution approved and provided for, to the end that the Bonds may be delivered on or about April 2, 1990, to the Authority pursuant to the Loan Agreement and the Supplemental Loan Agreement.

Section 11. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the District and will promote the health, welfare and safety of the residents of the District.

Section 12. The District hereby determines that it is in the best interest of the District to invest all moneys in the funds and accounts established by the Resolution according to the letter of instructions of the District to be delivered at the closing (the "Letter of Instructions"), and the District hereby directs the Depository Bank and the Paying Agent to take such actions as may be necessary to cause such moneys to be invested in accordance therewith.

Section 13. The District hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the District heretofore incurred for the purpose of

temporarily financing a portion of the Costs of the Project, including, but not limited to, any borrowings incurred for the purpose of paying engineering or design costs.

Section 14. Pursuant to Section 148(f)(4)(B)(iv) of the Code, as amended, the District hereby covenants and agrees to use not less than 75% of the net proceeds of the Series A Bond for construction expenditures on the Project. The District reasonably expects, as of the date hereof, to spend the net proceeds of the Series A Bond for the governmental purposes of the issue as follows:

(i) not less than 10% within 6 months after the date of issue of the Series A Bond;

(ii) not less than 45% within 12 months after the date of issue of the Series A Bond;

(iii) not less than 75% within 18 months after the date of issue of the Series A Bond;

(iv) not less than 100% within 24 months after the date of issue of the Series A Bond, unless the District is required to retain not more than 5% of the net proceeds of the Series A Bond as reasonable retainage under its construction contracts, in which case, said reasonable retainage shall be expended within 36 months after the date of issue of the Series A Bond.

As used in this Section 14 the term "net proceeds" shall include investment proceeds earned before the close of the periods above set out on the investment of the sale proceeds of the Series A Bond.

In the event that the net proceeds of the Series A Bond are not spent in the minimum percentages set out in this Section 14 within the times set out herein, the District hereby elects, pursuant to Section 148(f)(4)(B)(iv)(V) of the Code, to have the rebate provisions of Section 148 of the Code applied to the Series A Bond from its date of issue.

The District further elects, pursuant to Section 148(f)(4)(B)(iv)(VI) of the Code, to include within the term "net proceeds", as used in this Section 14, investment earnings on the Series A Bond Reserve Account.

Section 15. This Supplemental Resolution shall be effective immediately upon adoption.

Adopted this 28th day of March, 1990.

LUBECK PUBLIC SERVICE DISTRICT

By: James E. Smith
James E. Smith, Chairman

6820P



LOAN AGREEMENT

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

LUBECK PUBLIC SERVICE DISTRICT
(Name of Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies and to issue water development revenue bonds of the State of West Virginia (the "State") to finance, in whole or in part, by loans to governmental agencies, one or more water development projects, all subject to such provisions and limitations as are contained in the Act;

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

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

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

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

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act and having available sufficient funds therefor, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of revenue bonds of the Governmental Agency with proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a certain general revenue bond resolution adopted by the Board of the Authority (the "General Resolution"), as supplemented, subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's water development loan program (the "Program") as hereinafter set forth.

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

ARTICLE I

Definitions

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

1.2 "Consulting Engineers" means the consulting engineer designated in the Application and any successor thereto.

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

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

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

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

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

1.8 "Project" means the water development project hereinabove referred to, to be constructed or being constructed by the Governmental Agency in whole or in part with the net proceeds of the Local Bonds or being or having been constructed by the Governmental Agency in whole or in part with the proceeds of bond anticipation notes or other interim financing, which is to be paid in whole or in part with the net proceeds of the Local Bonds.

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

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

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute.

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

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

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

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

2.8 The Governmental Agency shall require that each of its contractors and all subcontractors maintain, during the life of the construction contract, workers' compensation coverage, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Authority. Until the Project facilities are completed

and accepted by the Governmental Agency, the Governmental Agency or (at the option of the Governmental Agency) the contractor shall maintain builder's risk insurance (fire and extended coverage) on a one hundred percent (100%) basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Governmental Agency, the prime contractor and all subcontractors, as their interests may appear. If facilities of the System which are detrimentally affected by flooding are or will be located in designated special flood or mudslide-prone areas and if flood insurance is available at a reasonable cost, a flood insurance policy must be obtained by the Governmental Agency on or before the Date of Loan Closing, as hereinafter defined, and maintained so long as any of the Local Bonds is outstanding. Prior to commencing operation of the Project, the Governmental Agency must also obtain, and maintain so long as any of the Local Bonds is outstanding, business interruption insurance if available at a reasonable cost.

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

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

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

ARTICLE III

Conditions to Loan; Issuance of Local Bonds

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

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

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

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Local Bonds required by State law, and the Authority shall have received an

opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

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

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

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

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

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies as in the aggregate will permit the fullest and most timely utilization of such proceeds to enable the Authority to pay debt service on the water development revenue bonds issued by it. The Governmental Agency specifically recognizes that the Authority will not execute this Loan Agreement unless and until it has available funds sufficient to purchase all the Local Bonds and that, prior to such execution, the Authority may commit to and purchase the revenue bonds of other governmental agencies for which it has sufficient funds available. The Governmental Agency further specifically recognizes that during the last 90 days of a period to originate Loans from its water development revenue bond proceeds, the Authority may execute Loan Agreements, commit moneys and close Local Bond sales in such order and manner as it deems in the best interest of the Program.

ARTICLE IV

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

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Loan, authorize the issuance of and issue the Local Bonds pursuant to an official

action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as set forth on Schedule Y attached hereto and incorporated herein by reference. The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

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

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Local Bonds, except parity bonds which shall only be

issued if net revenues of the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Local Bonds and parity bonds theretofore and then being issued and on any obligations secured by a lien on or payable from the revenues of the System prior to the Local Bonds; provided, however, that additional parity bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Loan Agreement;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

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

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

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

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

(xvii) That the Governmental Agency shall take any and all action, or shall refrain from taking any action, as shall be deemed necessary by the Authority to maintain the exclusion from gross income for Federal income tax purposes of interest on the Authority's water development revenue bonds.

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

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

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

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

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

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Program. Such administrative expenses shall be as determined by the Authority and shall include without limitation Program expenses, legal fees paid by the Authority and fees paid to the trustee and paying agents for the water development revenue bonds. The Authority shall provide both the Governmental Agency and the trustee for the water development revenue bonds with a schedule of such fees and charges, and the Governmental Agency shall pay such fees and charges on the dates indicated directly to the trustee. The Governmental Agency hereby specifically authorizes the Authority to exercise the powers granted it by Section 9.06 of the General Resolution.

4.7 The Governmental Agency agrees to expend the net proceeds of the Local Bonds for the Project within 3 years of the issuance of the Authority's bonds.

4.8 As long as the Authority is the owner of any of the Local Bonds outstanding, the Governmental Agency shall not redeem any of such Local Bonds outstanding without the written consent of the Authority, and any such redemption of Local Bonds authorized by the Authority shall provide for the payment

of interest to the first allowable redemption date for the applicable water development revenue bonds, the redemption premium payable on the applicable water development revenue bonds redeemable as a consequence of such redemption of Local Bonds and the costs and expenses of the Authority in effecting any such redemption, all as further prescribed by Section 9.11 of the General Resolution. Nothing in this Loan Agreement shall be construed to prohibit the Authority from refunding applicable water development revenue bonds, and such refunding need not be based upon or result in any benefit to the Governmental Agency.

ARTICLE V

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

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

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

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

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Loan Agreement.

6.2 At the option of the Authority, the Governmental Agency shall issue and sell to the Authority additional, subordinate bonds to evidence the Governmental Agency's obligation to repay to the Authority any grant received by the Governmental Agency from the Authority in excess of the amount to which the Governmental Agency is entitled pursuant to applicable policies or rules and regulations of the Authority. Also at the option of the Authority, the Governmental Agency may issue and sell to the Authority additional, subordinate bonds for such purposes as may be acceptable to the Authority.

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

6.4 The Governmental Agency hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority for the planning or design of the Project, and such repayment shall be a condition precedent to the Authority's making the Loan.

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

6.6 Notwithstanding Section 6.5, the Authority may at any time, in its sole discretion, cause the rebate calculations prepared by or on behalf of the Governmental Agency to be monitored or cause the rebate calculations for the Governmental Agency to be prepared, in either case at the expense of the Governmental Agency.

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

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

ARTICLE VII

Miscellaneous

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

7.2 Schedule X shall be attached to this Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

7.3 If any provision of this Loan Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Loan Agreement, and this

Loan Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been contained herein.

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

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

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

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

7.8 This Loan Agreement shall terminate upon the earlier of:

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

(ii) termination by the Authority pursuant to Section 6.3 hereof; or

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

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed by their respective duly

authorized officers as of the date executed below by the Authority.

LUBECK PUBLIC SERVICE DISTRICT
[Proper Name of Governmental Agency]

(SEAL)

By James E. Smith
Its Chairman, Public Service Board

Attest:

Date: February 7, 1990

Charles A. Huff
Its Secretary

WEST VIRGINIA WATER
DEVELOPMENT AUTHORITY

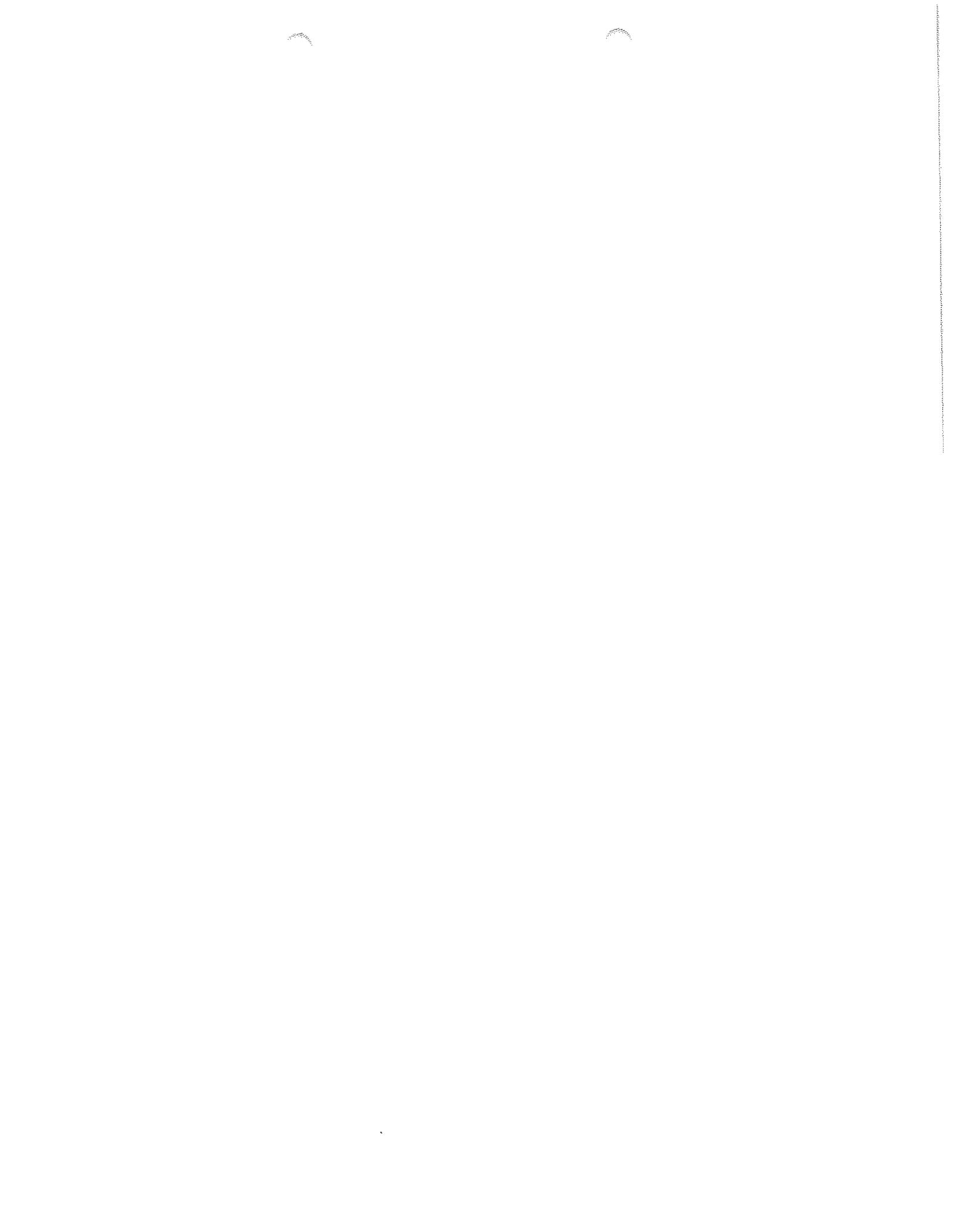
(SEAL)

By Daniel B. Yankosky
Director

Attest:

Date: March 28, 1990

Barbara B. Meadows
Secretary-Treasurer



WDA-5X
(March 1988)

SCHEDULE X
DESCRIPTION OF LOCAL BONDS

Principal Amount of Local Bonds	<u>\$3,139,013.00</u>
Purchase Price of Local Bonds	<u>\$3,139,013.00</u>

Interest on the Local Bonds is payable on April 1 and October 1 in each year, beginning with the first semiannual interest payment date after delivery of the Local Bonds to the Authority, until the Local Bonds are paid in full, at the rate of 7.85 % per annum. Principal of the Local Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference.

As of the date of the Loan Agreement, the Local Bonds are on a parity as to source of and security for payment with the following obligations:

As of the date of the Loan Agreement, the Local Bonds are subordinate as to source of and security for payment to the following obligations:



Lubeck Public Service District
 Debt Service Schedule
 Analysis of Borrowing from Series 1989 B Pool
 39 Principal Payments
 Closing Date: 02-Apr-90

Date	Coupon	Principal	Interest	Debt Service 7.85% Bonds
01-Oct-90			122,521.78	122,521.78
01-Oct-91	7.85%	13,648.00	246,412.52	260,060.52
01-Oct-92	7.85%	14,720.00	245,341.15	260,061.15
01-Oct-93	7.85%	15,876.00	244,185.63	260,061.63
01-Oct-94	7.85%	17,122.00	242,939.37	260,061.37
01-Oct-95	7.85%	18,466.00	241,595.29	260,061.29
01-Oct-96	7.85%	19,915.00	240,145.71	260,060.71
01-Oct-97	7.85%	21,479.00	238,582.38	260,061.38
01-Oct-98	7.85%	23,165.00	236,896.28	260,061.28
01-Oct-99	7.85%	24,983.00	235,077.83	260,060.83
01-Oct-2000	7.85%	26,945.00	233,116.66	260,061.66
01-Oct-2001	7.85%	29,060.00	231,001.48	260,061.48
01-Oct-2002	7.85%	31,341.00	228,720.27	260,061.27
01-Oct-2003	7.85%	33,801.00	226,260.00	260,061.00
01-Oct-2004	7.85%	36,455.00	223,606.62	260,061.62
01-Oct-2005	7.85%	39,316.00	220,744.90	260,060.90
01-Oct-2006	7.85%	42,403.00	217,658.60	260,061.60
01-Oct-2007	7.85%	45,731.00	214,329.96	260,060.96
01-Oct-2008	7.85%	49,321.00	210,740.08	260,061.08
01-Oct-2009	7.85%	53,193.00	206,868.38	260,061.38
01-Oct-2010	7.85%	57,368.00	202,692.73	260,060.73
01-Oct-2011	7.85%	61,872.00	198,189.34	260,061.34
01-Oct-2012	7.85%	66,729.00	193,332.39	260,061.39
01-Oct-2013	7.85%	71,967.00	188,094.16	260,061.16
01-Oct-2014	7.85%	77,616.00	182,444.75	260,060.75
01-Oct-2015	7.85%	83,709.00	176,351.90	260,060.90
01-Oct-2016	7.85%	90,280.00	169,780.74	260,060.74
01-Oct-2017	7.85%	97,367.00	162,693.76	260,060.76
01-Oct-2018	7.85%	105,011.00	155,050.45	260,061.45
01-Oct-2019	7.85%	113,254.00	146,807.09	260,061.09
01-Oct-2020	7.85%	122,144.00	137,916.65	260,060.65
01-Oct-2021	7.85%	131,733.00	128,328.35	260,061.35
01-Oct-2022	7.85%	142,074.00	117,987.31	260,061.31
01-Oct-2023	7.85%	153,227.00	106,834.50	260,061.50
01-Oct-2024	7.85%	165,255.00	94,806.18	260,061.18
01-Oct-2025	7.85%	178,228.00	81,833.66	260,061.66
01-Oct-2026	7.85%	192,218.00	67,842.76	260,060.76
01-Oct-2027	7.85%	207,308.00	52,753.65	260,061.65
01-Oct-2028	7.85%	223,581.00	36,479.97	260,060.97
01-Oct-2029	7.85%	241,132.00	18,928.86	260,060.86

3,139,013.00 7,125,894.09 10,264,907.09



SCHEDULE Y
REVENUES

In accordance with Subsection 4.1(a) of the Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

- (i) to pay Operating Expenses of the System;
- (ii) to the extent not otherwise limited by an outstanding local resolution, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth ($1/6$) of the interest payment next coming due on the Local Bonds and one-twelfth ($1/12$) of the principal payment next coming due on the Local Bonds and, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit) in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount not less than one-twelfth ($1/12$) of one-tenth ($1/10$) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;
- (iii) to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent ($2-1/2\%$) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account;
- (iv) to provide debt service on and requisite reserves for any subordinate indebtedness of the Governmental Agency held or owned by the Authority; and

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

SCHEDULE 2

Additional and Supplemental Definitions

1. "Local Statute" means Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended.

2. "System" means the 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, owned by the Governmental Agency, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall have obtained, among other permits required, a permit from the West Virginia Department of Health.

2. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of the System until all delinquent charges for the services of the System have been fully paid.

3. Subject to any prior or parity obligations described in Schedules X and Y attached to the Loan Agreement, the net revenues derived from the operation of the System are pledged to the payment of the principal of and interest on the Local Bonds.

4. The paying agent for the Local Bonds shall be the West Virginia Municipal Bond Commission or any successor to the functions thereof.

5. As a condition precedent to the Authority's making the Loan, the Governmental Agency shall deliver to the Authority a certificate representing the following:

- (a) The Governmental Agency expects to enter into a contract within six months of the date thereof for the construction of the Project, and the amount to be expended pursuant to such contract exceeds the lesser of 2-1/2 percent of the estimated total Project cost financed with proceeds from the sale of the Local Bonds or \$100,000;
- (b) Work with respect to the construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years from the date of issuance of the Authority's water development revenue bonds;
- (c) All of the proceeds from the sale of the Local Bonds which will be used for payment of costs of the Project will be expended for such purpose within three years from the date of issuance of the Authority's water development revenue bonds; and
- (d) The Governmental Agency does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bonds.

WDA-2
(March 1988)

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY

APPLICATION FOR A CONSTRUCTION LOAN

The undersigned Governmental Agency (the "Applicant") hereby applies to the West Virginia Water Development Authority (the "Authority") for a loan which will provide proceeds in the estimated amount shown on Line 20 of Schedule A hereto, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended. Such loan is to be made by the purchase by the Authority of one or more series of revenue bonds to be issued by the Applicant, to finance on a long term basis part of the cost of constructing the water development project hereinafter described (the "Project"). This Application shall not constitute a contract or a commitment to enter into a contract.

I. GENERAL

1. Full legal name and address of Applicant: _____

Lubeck Public Service District

P.O. Box 700; Washington, WV 26181

Year established: 1958 Telephone number: (304)863-3341

2. Name and title of chief executive officer of Applicant:

James E. Smith, Chairman

Board of Commissioners

Telephone number: (304) 863-3341



3. Location of Project: Wood County, West Virginia
4. Name, address and telephone number of bond counsel:
William R. Pfalzgraf 485-8500
Davis, Bailey, Pfalzgraf and Hall
P.O. Box 48
Parkersburg, WV 26102
5. Name, address and telephone number of local attorney:
Lawrence M. Ronning 422-6481
Attorney at Law
P.O. Box 1625
Parkersburg, WV 26102
6. Name, address and telephone number of consulting engineer:
Ronald R. Schultz, P.E. 485-8541
Burgess & Niple, Limited
4424 Emerson Avenue
Parkersburg, WV 26104
7. Name, address and telephone number of independent certified public accountant:
Philip R. Postlewait, Jr. CPA 422-7444
P.O. Box 1281
Parkersburg, WV 26102
8. Describe any bond anticipation notes or other interim construction financing outstanding in connection with the Project. The description should include the title, the principal amount currently outstanding, the repayment schedule and the security and source of payment. If the obligations are secured by a lien on or payable from revenues of the System, as hereinafter defined, the obligations should be paid or otherwise taken out with a portion of the proceeds of the revenue bonds issued to the Authority. If that is not anticipated, please contact the Authority. If no such interim construction obligations are outstanding, check this blank: XX.
9. Describe all outstanding waterworks revenue bonds, sewerage system revenue bonds or combined waterworks and sewerage system revenue bonds relating to the System, as hereinafter defined, and attach copies of all related ordinances or resolutions. The description should include the principal amount of such bonds currently outstanding and a schedule of remaining debt service. Restrictions regarding the issuance of additional bonds and the security available for such additional bonds (prior, parity or subordinate) should be described. If no such bonds are outstanding, check this blank: _____



II. ENGINEERING

(Attach separate sheets of paper as needed.)

1. Proposed Project:
a. Type:

Wastewater Treatment/Collection Facility _____
Potable Water Treatment/Distribution Facility X

b. Description: Project will construct a 2.4 million gallon per day water treatment, drill two water supply wells, equip 6 water supply wells, construct a 200,000 gallon water storage tank, construct a 200 gpm booster station, and construct 6600 feet of water main.

2. Enclose one copy of the feasibility study or facilities plan. A copy of the preliminary report is attached.

3. Check permits required for the Project and date received or, if not yet received, date application was submitted:

 X West Virginia Department of Health;
date received 4/12/89, 6/5/89, and 6/2/89
or application submitted _____

 X West Virginia Department of Natural Resources;
date received _____
or application submitted 3/7/89

 X Other: West Virginia Department of Highways ;
(specify)
date received 5/31/89 (contingent upon bond)
or application submitted _____

 X Other: Public Land Corporation ;
(specify)
date received 4/3/89
or application submitted _____

4. List all grants awarded or applied for and assumed in Schedule A. If already awarded, attach copy of grant award or approval. If not yet awarded, give date application was submitted and briefly describe status.

None

5. Proposed construction schedule (include construction activities already completed or in process):

Project Months 1 through 15 - Construct water treatment plant
Project Months 1 through 5 - Construct water supply wells
Project Months 1 through 8 - Construct water storage tank
Project Months 1 through 4 - Construct water main
Project Months 3 through 7 - Construct office and storage

For construction purposes, we presently expect project month 1 to be March, 1990.

6. Complete attached Schedule A: "Estimated Total Cost of Project and Sources of Funds." Prepare and attach (as Schedule B) a complete "Cash Flow Analysis" for the construction and acquisition of the Project. Such Cash Flow Analysis should show, among other things, the estimated date and amount of disbursements for Project costs and receipts of bond, note and grant proceeds and any other funds (including lines of credit) used and to be used for construction and acquisition of the Project.

7. Describe existing facilities, if any, to which the Project will constitute an addition or improvement (together with future additions or improvements, the "System"). If the Project is a start-up system, check this blank: _____.

(See Attached Sheet)

8. Set forth temporary or interim rates during construction (if interest is not capitalized), permanent rates proposed to be put in effect and estimated date on which permanent rates are proposed to be put in effect which must be no later than upon completion of the Project. Include the following information:

- (a) Detailed breakdown of gross revenues by customer class, i.e., domestic, commercial, industrial and miscellaneous, including numbers and projected flows and data supporting flow projections. This data is to _____

For purposes of providing the information in Paragraph 8, an annual interest rate of 8.0 percent (8.0%) should be assumed. With respect to the bond issue calculated on Schedule A, approximate level debt service with principal payments beginning on the first October occurring at least one year after estimated completion of construction of the Project and ending October 1, 2029, should be used.

II. ENGINEERING

(Additional Information)

3. _____ Other: West Virginia Department of Natural Resources,
Division of Water Resources
date received 3/28/89

7. The improvements proposed will represent a major improvement to an existing water system. Existing system components to remain in use include 3 water storage tanks and approximately 55 miles of water main. In addition, three existing water supply wells will be provided with pumping equipment and the pumping equipment in a third supply well will be replaced.

be for the first full year of operation after completion of the Project. Detailed breakdown of operation and maintenance staffing and expenses by utility code classification, including supporting data and explanation of major expense items. This data is to be for the first full year of operation after completion of the Project.

(b) Projected operations during construction (if temporary rates are in effect) and for the first three years of operation after completion of the Project, broken down as to gross revenues, operation and maintenance expenses, resulting net revenues and projected number of customers of the System at the end of each such fiscal year.

(c) Estimated debt service and estimated debt service coverage during such three-year period should be shown based on all outstanding obligations payable from the revenues of the System and the estimated size of the bond issue calculated on Schedule A.

9. Set forth the rates for any existing System described in Paragraph 7, above, that have been in effect for the last three fiscal years. Include gross revenues, operation and maintenance expenses by utility code classification for the last three fiscal years, resulting net revenues and number of customers by class, i.e., domestic, commercial, industrial and miscellaneous, of such System at the end of each fiscal year. The last three years' audits by the independent auditors for the System or, if not available for any of said three years, the reports to the Public Service Commission of West Virginia regarding the System must be submitted with this Application. The above requirements of this paragraph may be omitted if all information is contained in such audits or reports.

* * * * *

The undersigned, as a duly authorized representative of the Consulting Engineer, certifies that he has completed paragraphs 1, 2, 3, 4, 5, and 7 of Part II of this Application, including the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Ronald R. Schultz
(Signature)

Date: November 21, 1989

The undersigned, as a duly authorized representative of the Accountant, certifies that he has completed paragraphs 6, 8 and 9 of Part II of this Application, including the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Philip R. Fortenberry, CPA
(Signature)

-5- Date: 11-21, 19 89



The undersigned officer of the Applicant hereby certifies to the West Virginia Water Development Authority that he is duly authorized to execute this Application on behalf of the Applicant and that the information contained in this Application and in the exhibit documents attached hereto is true, correct and complete to the best knowledge and belief of the undersigned.

Name of Applicant (Typed): Lubeck Public Service District

By: (Signature) x James E. Smith

Title: Chairman, Board of Commissioners

Date: November 17, _____, 1989

DATE: 11-21-89

SCHEDULE A
NAME OF GOVERNMENTAL AGENCY: Lubeck Public Service District
ESTIMATED TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1. Construction		
2. Technical Services	\$	<u>3,869,936</u>
3. Legal and Fiscal	\$	<u>690,000</u>
4. Administrative	\$	<u>50,000</u>
5. Site and Other Lands	\$	<u>40,000</u>
6. Step I and/or Step II (Design) or Other Loan Repayment (Specify Type: _____)	\$	<u>32,227</u>
7. Interim Financing Costs	\$	_____
8. Contingency	\$	_____
9. Total of Lines 1 through 8	\$	<u>96,750</u>
		\$ <u>4,778,913</u>

B. Sources of Funds

10. Federal Grants: ' (Specify Source)	_____	\$	_____
11. State Grants: ' (Specify Source)	_____	\$	_____
	_____	\$	_____
	_____	\$	_____
12. Other Grants: ' (Specify Source)	<u>Sale of Existing Facility</u>	\$	<u>1,850,000</u>
	<u>Cash on Hand</u>	\$	<u>71,226</u>
13. Any Other Source ' (Specify)	<u>Interest Earned</u>	\$	<u>220,723</u>
	_____	\$	_____
14. Total of Lines 10 through 13			
15. Net Proceeds Required from Bond Issue (Line 9 less Line 14)			\$ <u>2,141,949</u>
			\$ <u>2,636,964</u>

C. Cost of Financing

6. Capitalized Interest (construction period plus six months)	\$	<u>372,351</u>
7. Funded Reserve Account	\$	<u>276,185</u>
8. Other Costs: '	\$	_____
	\$	_____
9. Total Cost of Financing	\$	_____
		\$ <u>648,536</u>
10. Size of Bond Issue (Line 15 plus Total from Line 9)	\$	<u>3,285,500</u>



- 1 Attach supporting documentation, if available. If not yet available,
- 2 state such.
- 3 For example, interest earnings during construction, if applicable.
- 4 Include the proceeds of any parity or subordinate bond issue to be
- 5 used for such purpose and attach supporting documentation if available.
- 6 Consult with bond counsel and the Authority before assuming a funded
- 7 reserve.
- 8 For example, fees of bond counsel for the Governmental Agency.

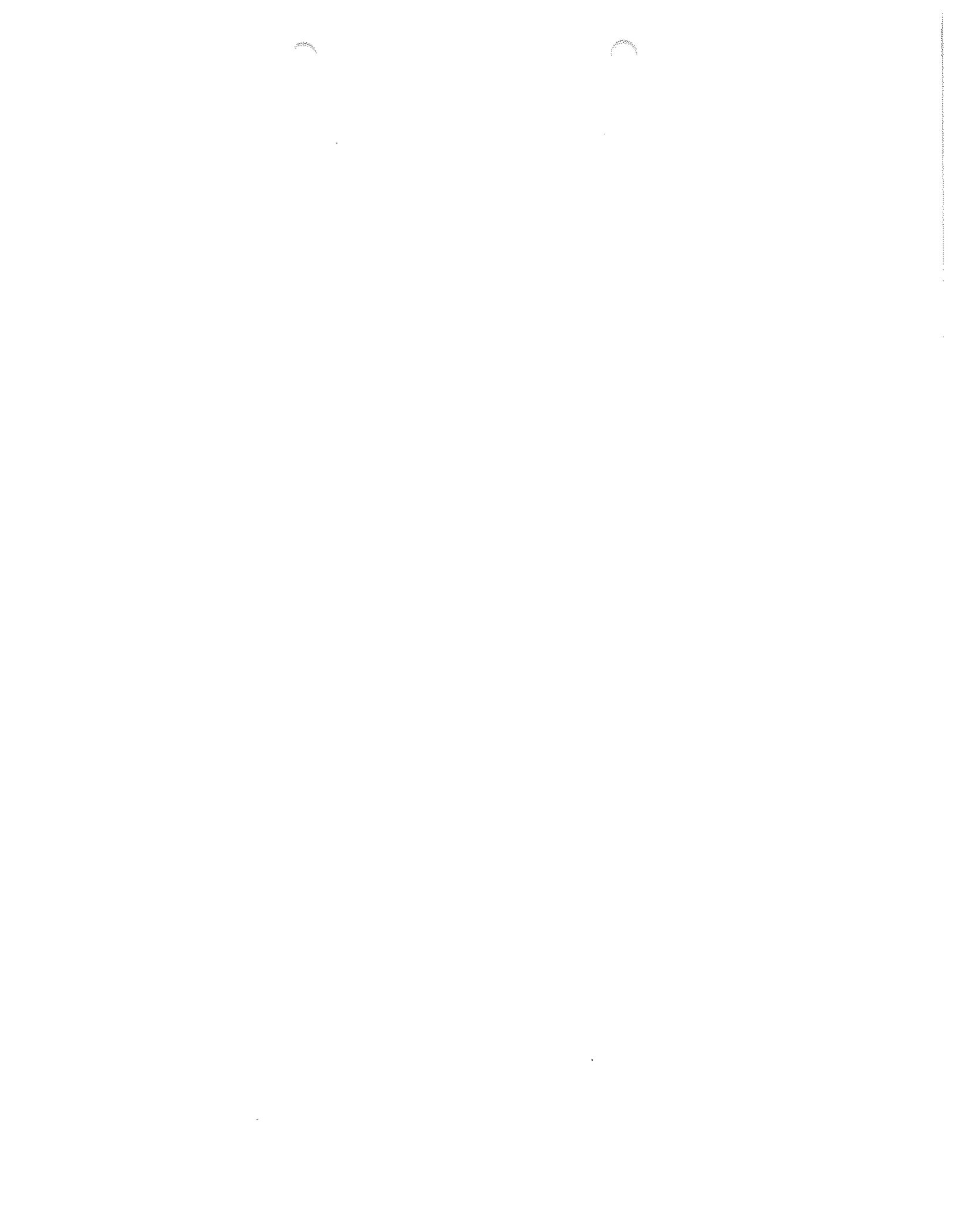
Additional or explanatory material may be provided on additional sheets attached to Schedule A.

James E. Smith
Lubeck Public Service District
 APPLICANT

Ronald R. Schulz
Burgess & Niple, Limited
 CONSULTING ENGINEER

Philip R. Postlewait, Jr.

Philip R. Postlewait, Jr.
Philip R. Postlewait, Jr.
 CONSULTING ACCOUNTANT



SCHEDULE B
ESTIMATED CASH FLOW ANALYSIS

Per Attached

LUBECK PUBLIC SERVICE DISTRICT
 CONSTRUCTION CASH FLOW
 RECEIPTS

TIME PERIOD	SALE OF PLANT	AVAILABLE RESERVES	BOND PROCEEDS	INTEREST EARNINGS	TOTAL DISEURSEMENTS	CASH AVAILABLE FOR PAYMENT	CASH BALANCE FOR INVESTMENT
Month 1	869,000	71,226	3,285,500		276,185	3,949,541	4,225,726
Month 2				28,172	569,787	3,407,926	3,684,111
Month 3	218,000			24,561	443,542	2,988,945	3,265,130
Month 4				21,768	506,866	2,721,847	2,998,032
Month 5				19,987	351,119	2,390,715	2,666,900
Month 6	218,000			17,779	305,865	2,102,629	2,378,814
Month 7				15,859	682,984	1,653,504	1,929,689
Month 8	218,000			12,864	273,321	1,393,047	1,669,232
Month 9				11,128	187,585	1,434,590	1,710,775
Month 10				11,405	172,399	1,273,596	1,549,781
Month 11	218,000			10,332	343,149	940,779	1,216,964
Month 12				8,113	172,399	994,493	1,270,678
Month 13				8,470	172,399	830,564	1,106,749
Month 14				7,377	172,399	665,542	941,727
Month 15				6,277	172,399	499,420	775,605
Month 16				5,170	172,399	332,191	608,376
Month 17				4,055	26,403	309,843	586,028
Month 18	109,000			3,906	26,403	287,346	563,531
Month 19				3,500	399,846	0	276,185
Month 20							
Month 21							
Month 22							
Month 23							
Month 24							
		71,226	3,285,500	220,723	5,427,449		
		1,850,000					



WDA-4
(March 1988)

WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
AMENDED APPLICATION FOR A CONSTRUCTION LOAN

1. Full legal name of Applicant: Lubeck Public Service District
P. O. Box 700, Washington, West Virginia 26181
2. Date of original Application for a Construction Loan (the "Original Application") (date signed by Applicant):
November 17, 1989
3. (a) Date bids for Project were received: October 19, 1989
(b) Expiration date of bids: April 2, 1990 as extended
(c) Attach copies of apparent responsible, acceptable low bids.
4. Complete attached Amended Schedule A: "Total Cost of Project and Sources of Funds," based on bids received. If construction of the Project has begun, indicate any changes to date from the cost of an sources of funds for the Project as bid. Revise and attach (as Amended Schedule B) a complete "Cash Flow Analysis" for the Project, based on bids received.
5. Set forth any other modifications to information included in or with the Original Application. Indicate to which paragraph of or exhibit to the Original Application the modified information applies. Per Page 4, Item 5, for construction purposes, we presently expect month 1 to be April, 1990. No other changes are made.

* * * *

The undersigned, as a duly authorized representative of the Consulting Engineer, certifies that he has completed this Amended Application, including the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Ronald R. Schulz
(Signature)
Date: March 31, 1990



10/10/10

The undersigned officer of the Applicant hereby certifies to the West Virginia Water Development Authority that he is duly authorized to execute this Amended Application on behalf of the Applicant and that the information contained in this Amended Application and in the exhibit documents attached hereto is true, correct and complete to the best knowledge and belief of the undersigned.

Name of Applicant (Typed): Lubeck Public Service District

By: (Signature) James E. Smith

Title: Chairman

Date: 4-2, 1990

The undersigned, as duly authorized representative of the Accountant, certifies that he has completed the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Philip L. Postward
(Signature)

Date: 3-30, 1990



DATE: March 21, 1990

AMENDED SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: Lubeck Public Service District
TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

. Construction	\$	<u>3,869,936</u>	
. Technical Services	\$	<u>690,000</u>	
. Legal and Fiscal	\$	<u>50,000</u>	
. Administrative	\$	<u>28,000</u>	
. Site and Other Lands	\$	<u>32,227</u>	
. Step I and/or Step II Design or Other Loan Repayment (Specify Type: _____)	\$	_____	
. Interim Financing Costs	\$	_____	
. Contingency	\$	<u>96,750</u>	
. Total of Lines 1 through 8			\$ <u>4,766,913</u>

B. Sources of Funds

0. Federal Grants: ¹ (Specify Source) _____	\$	_____	
1. State Grants: ¹ (Specify Source) _____	\$	_____	
	\$	_____	
	\$	_____	
	\$	_____	
2. Other Grants: ¹ (Specify Source) _____	\$	<u>1,850,000</u>	
	\$	<u>135,726</u>	
3. Any Other Source ² (Specify) _____	\$	<u>263,794</u>	
	\$	_____	
4. Total of Lines 10 through 13			\$ <u>2,249,520</u>
5. Proceeds Required from Bond Issue (Line 9 less Line 14)			\$ <u>2,517,393</u>

C. Cost of Financing

5. Capitalized Interest (construction period plus six months)	\$	<u>492,289</u>	
7. Funded Reserve Account ³	\$	<u>263,818</u>	
3. Other Costs ⁴	\$	<u>12,000</u>	
	\$	_____	
. Total Cost of Financing			\$ <u>7,681,107</u>
. Size of Bond Issue (Line 15 plus Total from Line 19)			\$ <u>3,285,500</u>

LUBECK PUBLIC SERVICE DISTRICT
CONSTRUCTION CASH FLOW
RECEIPTS

8 %

TIME PERIOD	SALE OF PLANT	AVAILABLE RESERVES	BOND PROCEEDS	TRANSFERS	INTEREST EARNINGS	TOTAL DISBURSEMENTS	CASH AVAILABLE FOR PAYMENT	CASH BALANCE FOR INVESTMENT	-----MUNICIPAL BOND COMMISSION-----	BALANCE	TOTAL
Month 1	869,000	71,226	3,285,500	0	23,131	756,107	3,469,619	3,469,619	0	756,107	4,225,726
Month 2				0	21,698	238,027	3,254,723	3,254,723	0	5,041	761,148
Month 3	218,000			0	20,236	240,968	3,035,453	3,035,453	0	5,074	766,222
Month 4				0	19,808	302,508	2,971,181	2,971,181	0	5,108	771,330
Month 5				0	17,698	336,355	2,654,634	2,654,634	0	5,142	776,472
Month 6	218,000			0	15,213	390,443	2,281,889	2,281,889	0	5,176	781,649
Month 7				0	14,677	313,567	2,201,534	2,201,534	0	5,211	786,860
Month 8	218,000			0	12,437	350,661	1,865,550	1,865,550	0	5,246	786,860
Month 9				0	11,687	342,981	1,753,006	1,753,006	0	5,246	786,860
Month 10				0	9,316	367,248	1,397,445	1,397,445	0	4,489	668,900
Month 11	218,000			0	6,660	407,798	998,963	998,963	0	4,519	668,900
Month 12				0	6,484	250,995	972,628	972,628	0	4,549	668,900
Month 13				0	4,969	233,817	745,295	745,295	0	4,579	668,900
Month 14				0	3,071	289,670	460,594	460,594	0	4,610	668,900
Month 15				0	1,692	209,865	253,799	253,799	0	3,819	576,719
Month 16				0	575	156,720	86,201	86,201	0	3,845	580,564
Month 17				4,500	0	4,500	0	0	0	3,870	514,490
Month 18	109,000	64,500		0	0	173,500	0	0	0	3,430	513,420
Month 19				0	0	0	0	0	0	3,423	516,843
Month 20				0	0	0	0	0	0	3,446	379,642
Month 21				0	0	0	0	0	0	2,531	382,173
Month 22				0	0	0	0	0	0	2,548	384,721
Month 23				0	0	0	0	0	0	2,565	387,286
Month 24				0	0	0	0	0	0	2,582	389,868
										0	389,868
										-122,671	267,197
	1,850,000	135,726	3,285,500	74,444	189,350	5,535,020				95,263	-492,289



LUBECK PUBLIC SERVICE DISTRICT
 CONSTRUCTION CASH FLOW
 DISBURSEMENTS

TIME PERIOD	CONTRACT 88-1 PLANT	CONTRACT 88-2 WELLS	CONTRACT 88-3 TANKS	CONTRACT 88-4 LINES	ENGINEERING SERVICES	ADMIN, LEGAL, ROW, ETC	OFFICE, STORAGE, CONTINGENCY	BOND COMMISSION	TOTAL DISBURSEMENTS
Month 1	0	0	0	0	226,027	12,000		756,107	238,027
Month 2	91,330	6,678	16,873	20,114	105,973				240,968
Month 3	127,110	13,689	47,128	60,339	13,500	40,742			302,508
Month 4	152,380	15,575	53,819	60,339	13,500	40,742			336,355
Month 5	227,310	19,863	60,801	40,226	13,500	28,743			390,443
Month 6	232,430	0	67,637	0	13,500				313,567
Month 7	234,730	6,215	43,928	20,113	13,500		32,175		350,661
Month 8	234,730		30,401		13,500		64,350		342,981
Month 9	273,310				13,500		80,438		367,248
Month 10	280,900		16,873		13,500		96,525		407,798
Month 11	205,320				13,500		32,175		250,995
Month 12	204,230				13,500		16,087		233,817
Month 13	276,170				13,500				289,670
Month 14	196,365				13,500				209,865
Month 15	155,790				13,500				169,290
Month 16	152,220				4,500				156,720
Month 17					4,500				4,500
Month 18					173,500				173,500
Month 19									0
Month 20									0
Month 21									0
Month 22									0
Month 23									0
Month 24									0

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WDA-4
(March 1988)

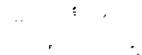
WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
AMENDED APPLICATION FOR A CONSTRUCTION LOAN

1. Full legal name of Applicant: Lubeck Public Service District
P. O. Box 700, Washington, West Virginia 26181
2. Date of original Application for a Construction Loan (the "Original Application") (date signed by Applicant):
November 17, 1989
3. (a) Date bids for Project were received: October 19, 1989
(b) Expiration date of bids: April 2, 1990 as extended
(c) Attach copies of apparent responsible, acceptable low bids.
4. Complete attached Amended Schedule A: "Total Cost of Project and Sources of Funds," based on bids received. If construction of the Project has begun, indicate any changes to date from the cost of an sources of funds for the Project as bid. Revise and attach (as Amended Schedule B) a complete "Cash Flow Analysis" for the Project, based on bids received.
5. Set forth any other modifications to information included in or with the Original Application. Indicate to which paragraph of or exhibit to the Original Application the modified information applies. Per Page 4, Item 5, for construction purposes, we presently expect month 1 to be April, 1990. No other changes are made.

* * * *

The undersigned, as a duly authorized representative of the Consulting Engineer, certifies that he has completed this Amended Application, including the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Ronald R. Schultz
(Signature)
Date: March 31, 1990



The undersigned officer of the Applicant hereby certifies to the West Virginia Water Development Authority that he is duly authorized to execute this Amended Application on behalf of the Applicant and that the information contained in this Amended Application and in the exhibit documents attached hereto is true, correct and complete to the best knowledge and belief of the undersigned.

Name of Applicant (Typed): Lubeck Public Service District

By: (Signature) James E. Smith

Title: Chairman

Date: 4-2, 19 90

The undersigned, as duly authorized representative of the Accountant, certifies that he has completed the exhibit documents attached, and consents to the use of such information by the Authority in connection with the financing of the Project.

Phelp R. Postlewaite
(Signature)

Date: 3-30, 19 90



DATE: March 21, 1990

AMENDED SCHEDULE A

NAME OF GOVERNMENTAL AGENCY: Lubeck Public Service District
TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1. Construction	\$ <u>3,869,936</u>	
2. Technical Services	\$ <u>690,000</u>	
3. Legal and Fiscal	\$ <u>50,000</u>	
4. Administrative	\$ <u>28,000</u>	
5. Site and Other Lands	\$ <u>32,227</u>	
6. Step I and/or Step II Design or Other Loan Repayment (Specify Type: _____)	\$ _____	
7. Interim Financing Costs	\$ _____	
8. Contingency	\$ <u>96,750</u>	
9. Total of Lines 1 through 8		\$ <u>4,766,913</u>

B. Sources of Funds

10. Federal Grants: ¹ (Specify Source) _____	\$ _____	
11. State Grants: ¹ (Specify Source) _____	\$ _____	
	\$ _____	
	\$ _____	
12. Other Grants: ¹ (Specify Source) _____	\$ <u>1,850,000</u>	
	\$ <u>135,726</u>	
13. Any Other Source: ² (Specify) _____	\$ <u>263,794</u>	
	\$ _____	
14. Total of Lines 10 through 13		\$ <u>2,249,520</u>
15. Proceeds Required from Bond Issue (Line 9 less Line 14)		\$ <u>2,517,393</u>

C. Cost of Financing

16. Capitalized Interest (construction period plus six months)	\$ <u>492,289</u>	
17. Funded Reserve Account ³	\$ <u>263,818</u>	
18. Other Costs ⁴	\$ <u>12,000</u>	
	\$ _____	
19. Total Cost of Financing		\$ <u>768,107</u>
20. Size of Bond Issue (Line 15 plus Total from Line 19)		\$ <u>3,285,500</u>



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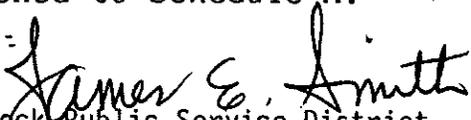
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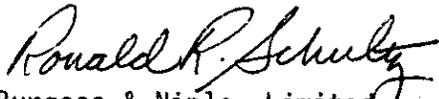
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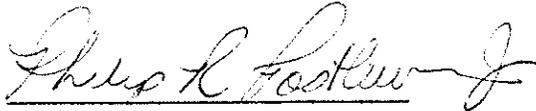
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- 1 Attach supporting documentation, if available. If not yet available, state such.
 - 2 For example, interest earnings during construction, if applicable. Include the proceeds of any parity or subordinate bond issue to be used for such purpose and attach supporting documentation if available.
 - 3 Consult with bond counsel and the Authority before assuming a funded reserve.
 - 4 For example, fees of bond counsel for the Governmental Agency.

Additional or explanatory material may be provided on additional sheets attached to Schedule A.


Lubeck Public Service District
APPLICANT


Burgess & Niple, Limited
CONSULTING ENGINEER

Philip R. Postlewait, Jr.


Philip R. Postlewait, Jr.
CONSULTING ACCOUNTANT



The following table shows the results of the experiment. The data indicates that the reaction rate is significantly higher at higher temperatures, which is consistent with the Arrhenius equation. The activation energy of the reaction is estimated to be approximately 45 kJ/mol.

Temperature (K)	Reaction Rate (mol/L·s)
298	0.0012
308	0.0025
318	0.0050
328	0.0100
338	0.0200

The data points are plotted on a graph of $\ln(k)$ versus $1/T$, showing a linear relationship. The slope of the line is used to determine the activation energy.

LUBECK PUBLIC SERVICE DISTRICT
CONSTRUCTION CASH FLOW
RECEIPTS

8 %

TIME PERIOD	SALE OF PLANT	AVAILABLE RESERVES	BOND PROCEEDS	TRANSFERS	INTEREST EARNINGS	TOTAL DISBURSEMENTS	CASH AVAILABLE FOR PAYMENT	CASH BALANCE FOR INVESTMENT	-----MUNICIPAL BOND COMMISSION-----	TRANSFERS	INTEREST PAID	BALANCE	TOTAL
Month 1	869,000	71,226	3,285,500	0	23,131	756,107	3,469,619	3,469,619		756,107	0	756,107	4,225,726
Month 2				0	21,698	240,968	3,254,723	3,254,723		0	5,074	761,148	4,015,871
Month 3	218,000			0	20,236	302,508	3,035,453	3,035,453		0	5,108	766,222	3,801,675
Month 4				0	19,808	336,355	2,971,181	2,971,181		0	5,142	771,330	3,742,511
Month 5				0	17,698	390,443	2,654,634	2,654,634		0	5,176	776,472	3,431,107
Month 6	218,000			0	15,213	313,567	2,281,889	2,281,889		0	5,211	781,649	3,063,538
Month 7				0	14,677	350,661	2,201,534	2,201,534		0	5,246	786,860	2,988,394
Month 8	218,000			0	12,437	342,981	1,865,550	1,865,550		0	5,266	668,900	2,534,450
Month 9				0	11,687	367,248	1,753,006	1,753,006		0	4,459	673,359	2,426,365
Month 10				0	9,316	407,798	1,397,445	1,397,445		0	4,489	677,848	2,075,293
Month 11	218,000			0	6,660	250,995	998,963	998,963		0	4,519	682,367	1,681,330
Month 12				0	6,484	233,817	972,628	972,628		0	4,549	686,916	1,659,544
Month 13				0	4,969	289,670	745,295	745,295		0	4,579	691,496	1,436,791
Month 14				0	3,071	209,865	460,594	460,594		0	4,610	572,899	1,033,493
Month 15				0	1,692	169,290	253,799	253,799		0	3,819	576,719	830,518
Month 16				69,944	575	156,720	86,201	86,201		0	3,845	580,564	666,765
Month 17				4,500	0	4,500	0	0		-69,944	3,870	514,490	514,490
Month 18	109,000	64,500		0	0	173,500	0	0		-4,500	3,430	513,420	513,420
Month 19				0	0	0	0	0		0	3,423	516,843	516,843
Month 20				0	0	0	0	0		-17,440	3,446	379,642	379,642
Month 21				0	0	0	0	0		0	2,531	382,173	382,173
Month 22				0	0	0	0	0		0	2,548	384,721	384,721
Month 23				0	0	0	0	0		0	2,565	387,286	387,286
Month 24				0	0	0	0	0		0	2,582	389,868	389,868
												389,868	389,868
												267,197	267,197
												-122,671	-122,671

1,850,000 135,726 3,285,500 74,444 189,350 5,535,020 95,263 -492,289 -----



LUBECK PUBLIC SERVICE DISTRICT
 CONSTRUCTION CASH FLOW
 DISBURSEMENTS

PERIOD	CONTRACT 88-1	CONTRACT 88-2	CONTRACT 88-3	CONTRACT 88-4	ENGINEERING SERVICES	ADMIN, LEGAL, ROW, ETC	OFFICE, STORAGE, CONTINGENCY	BOND COMMISSION	TOTAL DISBURSEMENTS
Month 1	0	0	0	0	226,027	12,000		756,107	756,107
Month 2	91,330	6,678	16,873	20,114	105,973				238,027
Month 3	127,110	13,689	47,128	60,339	13,500	40,742			240,968
Month 4	152,380	15,575	53,819	60,339	13,500	40,742			302,508
Month 5	227,310	19,863	60,801	40,226	13,500	28,743			336,355
Month 6	232,430	0	67,637	0	13,500				390,443
Month 7	234,730	6,215	43,928	20,113	13,500		32,175		313,567
Month 8	234,730		30,401		13,500		64,350		350,661
Month 9	273,310				13,500		80,438		342,981
Month 10	280,900		16,873		13,500		96,525		367,248
Month 11	205,320				13,500		32,175		407,798
Month 12	204,230				13,500		16,087		250,995
Month 13	276,170				13,500				233,817
Month 14	196,365				13,500				289,670
Month 15	155,790				13,500				209,865
Month 16	152,220				4,500				169,290
Month 17					4,500				156,720
Month 18					173,500				4,500
Month 19									173,500
Month 20									0
Month 21									0
Month 22									0
Month 23									0
Month 24									0

 3,044,325 62,020 337,460 201,131 690,000 122,227 321,750 756,107 5,535,020



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WDA-Supp. 5
(March 1988)

SUPPLEMENTAL LOAN AGREEMENT

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

LUBECK PUBLIC SERVICE DISTRICT
(Name of Governmental Agency)

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 20, Article 5C, of the Code of West Virginia, 1931, as amended (the "Act"), the Authority is empowered to make loans to governmental agencies for the acquisition or construction of water development projects by such governmental agencies and to issue water development revenue bonds of the State of West Virginia (the "State") to finance, in whole or in part, by loans to governmental agencies, one or more water development projects, all subject to such provisions and limitations as are contained in the Act;

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

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

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

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

WHEREAS, on or prior to the date hereof, the Governmental Agency and the Authority entered a loan agreement with respect to the purchase by the Authority of certain Local Bonds of the Governmental Agency, all as more specifically described in Exhibit A attached hereto and incorporated herein by reference (the "Loan Agreement"); and

WHEREAS, having reviewed the Application and made all findings required by Section 5 of the Act, and having available sufficient funds therefor, the Authority is willing to lend the Governmental Agency the amount set forth on Schedule X attached hereto and incorporated herein by reference, through the purchase of supplemental, subordinate revenue bonds of the Governmental Agency with certain available funds of the Authority (other than the proceeds of certain water development revenue bonds of the State issued by the Authority pursuant to and in accordance with the provisions of the Act and a certain general revenue bond resolution adopted by the Board of the Authority, as supplemented), subject to the Governmental Agency's satisfaction of certain legal and other requirements of the Authority's supplemental water development loan program (the "Supplemental Program") as hereinafter set forth.

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

ARTICLE I

Definitions; Loan Agreement

1.1 Capitalized terms used and not otherwise defined herein shall have the meanings respectively given them by the Loan Agreement.

1.2 Except where the context clearly indicates otherwise, the terms "Authority," "water development revenue bond," "cost," "governmental agency," "water development project," "wastewater facility" and "water facility" have the definitions and meanings ascribed to them in the Act.

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

1.4 "Supplemental Bonds" means the revenue bonds to be issued by the Governmental Agency pursuant to the provisions of the Local Statute, to evidence the Supplemental Loan, as hereinafter defined, and to be purchased by the Authority with certain available funds (other than the proceeds of its water development revenue bonds), the lien of which on the revenues

of the System is junior, subordinate and inferior to that of the Local Bonds, all in accordance with the provisions of this Supplemental Loan Agreement.

1.5 "Supplemental Loan" means the loan to be made by the Authority to the Governmental Agency through the purchase of Supplemental Bonds pursuant to this Supplemental Loan Agreement.

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

1.7 This Supplemental Loan Agreement is supplemental to the Loan Agreement, the terms of which are incorporated herein by reference.

ARTICLE II

The Project and the System

2.1 The Project shall generally consist of the construction and acquisition of the facilities described in the Application, to be, being or having been constructed in accordance with plans, specifications and designs prepared for the Governmental Agency by the Consulting Engineers, the Authority having found, to the extent applicable, that the Project is consistent with the applicable comprehensive plan of water management approved by the Director of the West Virginia Department of Natural Resources (or in the process of preparation by such Director), has been approved by the West Virginia Department of Health and is consistent with the standards set by the West Virginia Water Resources Board for the waters of the State affected thereby.

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

2.3 All real estate and interests in real estate and all personal property constituting the Project and the Project site heretofore or hereafter acquired shall at all times be and remain the property of the Governmental Agency, subject to any mortgage lien or other security interest as is provided for in the Local Statute.

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

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

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

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

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

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

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

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

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

ARTICLE III

Conditions to Supplemental Loan; Issuance of Supplemental Bonds

3.1 The agreement of the Authority to make the Supplemental Loan is subject to the Governmental Agency's fulfillment, to the satisfaction of the Authority, of each and all of those certain conditions precedent on or before the delivery date for the Supplemental Bonds, which shall be the

date established pursuant to Section 3.4 of the Loan Agreement for delivery of the Local Bonds. Said conditions precedent are as follows:

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

(b) The Governmental Agency shall have authorized the issuance of and delivered to the Authority for purchase the Supplemental Bonds described in this Article III and in Article IV hereof and shall have delivered to the Authority for purchase the Local Bonds in accordance with the Loan Agreement;

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

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

(e) The Governmental Agency shall have obtained all requisite orders of and approvals from the Public Service Commission of West Virginia (the "PSC") necessary for the construction of the Project and operation of the System, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(f) The Governmental Agency shall have obtained any and all approvals for the issuance of the Supplemental Bonds required by State law, and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

(g) The Governmental Agency shall have obtained any and all approvals of rates and charges required by State law and shall have taken any other action required to establish and impose such rates and charges (imposition of such

rates and charges is not, however, required to be effective until completion of construction of the Project), and the Authority shall have received an opinion of counsel to the Governmental Agency, which may be local counsel to the Governmental Agency, bond counsel or special PSC counsel but must be satisfactory to the Authority, to such effect;

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

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

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

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

3.4 The Supplemental Loan will be made only in conjunction with the Loan. The Supplemental Bond shall be delivered to the Authority, at the offices of the Authority,

simultaneously with the delivery of the Local Bond to the Authority.

3.5 The Governmental Agency understands and acknowledges that it is one of several governmental agencies which have applied to the Authority for loans to finance water development projects and that the obligation of the Authority to make any such loan is subject to the Governmental Agency's fulfilling all of the terms and conditions of this Supplemental Loan Agreement and the Loan Agreement on or prior to the Date of Loan Closing and to the right of the Authority to make such loans to other governmental agencies under the conditions and in the manner described in the Loan Agreement. The Governmental Agency further understands and acknowledges that the Authority's obligation to make the Supplemental Loan is subject to the availability on the Date of Loan Closing of funds legally available therefor.

3.6 Anything in this Loan Agreement notwithstanding, if the Authority is unable to pay the proceeds of the Supplemental Bonds to the Governmental Agency on the Date of Loan Closing due to the time required for processing the purchase order or requisition for such moneys with the State, the Authority may pay such proceeds as soon as received after the Date of Loan Closing; provided, that the Supplemental Bonds shall not evidence any debt to be repaid to the Authority until the proceeds thereof are received by the Governmental Agency.

ARTICLE IV

Supplemental Bonds; Security for Supplemental Loan;
Repayment of Supplemental Loan; No Interest on
Supplemental Loan; Fees and Charges

4.1 The Governmental Agency shall, as one of the conditions of the Authority to make the Supplemental Loan, authorize the issuance of and issue the Supplemental Bonds pursuant to an official action of the Governmental Agency in accordance with the Local Statute, which shall, as enacted, contain provisions and covenants in substantially the form as follows:

(a) That the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as set forth on Schedule Y attached hereto and incorporated herein by reference. The gross revenues of the System shall always be used for purposes of the System.

(b) Covenants substantially as follows:

(i) That the Supplemental Bonds shall be secured by the gross or net revenues from the System, as more fully set forth in Schedules X and Y attached hereto, subject to the prior and senior security therefrom granted to the Local Bonds;

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

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

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

(v) That the Governmental Agency shall not issue any other obligations payable from the revenues of the System which rank prior to, or equally, as to lien and security with the Supplemental Bonds, except the Local Bonds and bonds on a parity with the Supplemental Bonds, which parity bonds shall only be issued if net revenues of

the System prior to issuance of such parity bonds, plus reasonably projected revenues from rate increases and the improvements to be financed by such parity bonds, shall not be less than one hundred fifteen percent (115%) of the maximum debt service in any succeeding year on all Supplemental Bonds and parity bonds theretofore and then being issued and on the Local Bonds and any other obligations secured by a lien on or payable from the revenues of the System prior to the Supplemental Bonds; provided, however, that additional parity Local Bonds and additional parity Supplemental Bonds may be issued to complete the Project, as described in the Application as of the date hereof, without regard to the foregoing;

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

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

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

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

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

(xi) That the Governmental Agency shall annually cause the records of the System to be audited by an independent certified public accountant and shall submit the report of said audit to the Authority, which report shall include a statement that the Governmental Agency is in compliance with the terms and provisions of the Local Act and this Supplemental Loan Agreement;

(xii) That the Governmental Agency shall annually adopt a detailed budget of the estimated expenditures for operation and maintenance of the System during the succeeding fiscal year;

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

(xiv) That the proceeds of the Supplemental Bonds, except any proceeds deposited in the Reserve Account or the Supplemental Reserve Account, must be deposited in a construction fund on which the owners of the Supplemental Bonds shall have a lien until such proceeds are applied to the construction of the Project (including the repayment of any incidental interim financing for non-construction costs); provided, that said construction fund may be the one established for the Local Bonds, which shall have a prior and senior lien thereon, but shall otherwise be kept separate and apart from all other funds of the Governmental Agency; and

(xv) That, as long as the Authority is the owner of any of the Supplemental Bonds, the Governmental Agency shall not authorize redemption of any Supplemental Bonds by it without the written consent of the Authority.

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

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

4.3 The principal of the Supplemental Loan shall be repaid by the Governmental Agency annually on the day and in the years provided in Schedule X hereto.

4.4 The Supplemental Loan shall not bear interest.

4.5 The Supplemental Bonds shall be delivered to the Authority in fully registered form, transferable and exchangeable as provided in the Local Act at the expense of the Governmental Agency.

4.6 The Governmental Agency agrees to pay from time to time, as required by the Authority, the Governmental Agency's allocable share of the reasonable administrative expenses of the Authority relating to the Supplemental Program, which administrative expenses shall be as determined by the Authority and shall include, but not be limited to, legal fees paid by the Authority.

4.7 If the schedule furnished to the Authority pursuant to Section 6.5 reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess of funding for the Project, the Authority may tender to the Governmental Agency its Supplemental Bonds for payment in an amount equal to such excess. Notwithstanding the foregoing, if the Governmental Agency has grant anticipation notes or some other interim financing outstanding upon completion of construction of the Project, it shall advise the Authority of such fact and submit a second schedule to the Authority upon payment of the interim financing, and the Authority shall not tender its Supplemental Bonds for payment until the outstanding interim financing has been paid.

ARTICLE V

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

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

5.2 In the event, for any reason, the schedule of rates, fees and charges initially established for the System in connection with the Local Bonds and the Supplemental Bonds shall prove to be insufficient to produce the minimum sums set

forth in the Local Act, the Governmental Agency hereby covenants and agrees that it will, to the extent or in the manner authorized by law, immediately adjust and increase such schedule of rates, fees and charges so as to provide funds sufficient to produce the minimum sums set forth in the Local Act and as required by this Supplemental Loan Agreement.

5.3 In the event the Governmental Agency defaults in the payment of any fees due to the Authority pursuant to Section 4.6 hereof, the amount of such default shall bear interest at the rate of five percent (5%) per annum, from the date of the default until the date of the payment thereof.

5.4 The Governmental Agency hereby irrevocably covenants and agrees with the Authority that, in the event of any default hereunder by the Governmental Agency, the Authority may exercise any or all of the rights and powers granted under Section 6a of the Act, including without limitation the right to impose, enforce and collect directly charges upon users of the System.

ARTICLE VI

Other Agreements of the Governmental Agency

6.1 The Governmental Agency hereby acknowledges to the Authority its understanding of the provisions of the Act, vesting in the Authority certain powers, rights and privileges with respect to water development projects in the event of default by governmental agencies in the terms and covenants of loan agreements, and the Governmental Agency hereby covenants and agrees that, if the Authority should hereafter have recourse to said rights and powers, the Governmental Agency shall take no action of any nature whatsoever calculated to inhibit, nullify, void, delay or render nugatory such actions of the Authority in the due and prompt implementation of this Supplemental Loan Agreement.

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

the Authority by the Governmental Agency in connection with the Loan or the Supplemental Loan shall be incorrect or incomplete in any material respect or (b) the Governmental Agency has violated any commitment made by it in its Application or in any supporting documentation or has violated any of the terms of the Loan Agreement or this Supplemental Loan Agreement.

6.3 The Governmental Agency hereby agrees to repay on or prior to the Date of Loan Closing any moneys due and owing by it to the Authority for the planning or design of the Project, and such repayment shall be a condition precedent to the Authority's making the Supplemental Loan.

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

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

ARTICLE VII

Miscellaneous

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

7.2 Schedule X shall be attached to this Supplemental Loan Agreement by the Authority as soon as practicable after the Date of Loan Closing is established and shall be approved by an official action of the Governmental Agency supplementing the Local Act, a certified copy of which official action shall be submitted to the Authority.

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

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

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

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

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

7.8 This Supplemental Loan Agreement shall terminate upon the earlier of:

(i) termination by the Authority of the Loan Agreement pursuant to Subsections 7.8(i) or (ii) thereof;

(ii) termination by the Authority pursuant to Section 6.2 hereof; or

(iii) payment in full of the principal of the Supplemental Loan and of any fees and charges owed by the Governmental Agency to the Authority.

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

LUBECK PUBLIC SERVICE DISTRICT
[Proper Name of Governmental Agency]

(SEAL)

By James E. Smith
Its Chairman, Public Service Board

Attest:

Date: February 7, 1990

Charles A. Hoffmann
Its Secretary

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

(SEAL)

By Daniel B. Gontsky
Director

Attest:

Date: March 28, 1990

Barbara B. Meadows
Secretary-Treasurer

WDA-Supp. 5X
(March 1988)

SCHEDULE X
DESCRIPTION OF SUPPLEMENTAL BONDS

Principal Amount of Supplemental Bonds	\$ <u>146,487.00</u>
Purchase Price of Supplemental Bonds	\$ <u>146,487.00</u>

Principal of the Supplemental Bonds is payable on October 1 in each year as set forth on Exhibit 1 attached hereto and incorporated herein by reference. The Supplemental Bonds bear no interest.

As of the date of the Supplemental Loan Agreement, the Supplemental Bonds are on a parity as to source of and security for payment with the following obligations:

As of the date of the Supplemental Loan Agreement, the Supplemental Bonds are subordinate as to source of and security for payment to the following obligations, in addition to the Local Bonds:



Lubeck Public Service District
 Debt Service Schedule
 Analysis of Borrowing from Series 1989 B Pool
 39 Principal Payments
 Closing Date: 02-Apr-90

Date	Interest Free Loan
01-Oct-90	
01-Oct-91	3,755.96
01-Oct-92	3,756.08
01-Oct-93	3,756.08
01-Oct-94	3,756.08
01-Oct-95	3,756.08
01-Oct-96	3,756.08
01-Oct-97	3,756.08
01-Oct-98	3,756.08
01-Oct-99	3,756.08
01-Oct-2000	3,756.08
01-Oct-2001	3,756.08
01-Oct-2002	3,756.08
01-Oct-2003	3,756.08
01-Oct-2004	3,756.08
01-Oct-2005	3,756.08
01-Oct-2006	3,756.08
01-Oct-2007	3,756.08
01-Oct-2008	3,756.08
01-Oct-2009	3,756.08
01-Oct-2010	3,756.08
01-Oct-2011	3,756.08
01-Oct-2012	3,756.08
01-Oct-2013	3,756.08
01-Oct-2014	3,756.08
01-Oct-2015	3,756.08
01-Oct-2016	3,756.08
01-Oct-2017	3,756.08
01-Oct-2018	3,756.08
01-Oct-2019	3,756.08
01-Oct-2020	3,756.08
01-Oct-2021	3,756.08
01-Oct-2022	3,756.08
01-Oct-2023	3,756.08
01-Oct-2024	3,756.08
01-Oct-2025	3,756.08
01-Oct-2026	3,756.08
01-Oct-2027	3,756.08
01-Oct-2028	3,756.08
01-Oct-2029	3,756.08

146,487.00

SCHEDULE Y
REVENUES

In accordance with Subsection 4.1(a) of the Supplemental Loan Agreement, the revenues generated from the operation of the System will be used monthly, in the order of priority listed, as follows:

- (i) as prescribed by the Loan Agreement, to pay Operating Expenses of the System;
- (ii) as prescribed by the Loan Agreement, to the extent not otherwise limited by an outstanding local resolution, indenture or other act or document, as reflected on Schedule X to the Loan Agreement, and beginning seven (7) months prior to the first date of payment of interest on the Local Bonds from revenues and thirteen (13) months prior to the first date of payment of principal of the Local Bonds, respectively, to provide debt service on the Local Bonds by depositing in a sinking fund one-sixth (1/6) of the interest payment next coming due on the Local Bonds and one-twelfth (1/12) of the principal payment next coming due on the Local Bonds and, if the Reserve Account was not funded from proceeds of the Local Bonds or otherwise concurrently with the issuance thereof (which, with an approving opinion of bond counsel to the Governmental Agency, may be with a letter of credit) in an amount equal to the Reserve Requirement, by depositing in the Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Reserve Requirement or, if the Reserve Account has been so funded (whether by Local Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Reserve Account at the Reserve Requirement;
- (iii) as prescribed by the Loan Agreement, to create a renewal and replacement, or similar, fund in an amount equal to two and one-half percent (2-1/2%) of the gross revenues from the System, exclusive of any payments into the Reserve Account, for the purpose of improving or making emergency repairs or replacements to the System or eliminating any deficiencies in the Reserve Account;
- (iv) beginning thirteen (13) months prior to the first date of payment of principal of the Supplemental Bonds, to provide debt service on the Supplemental Bonds by

depositing in a sinking fund one-twelfth (1/12) of the principal payment next coming due on the Supplemental Bonds and, if the Supplemental Reserve Account was not funded concurrently with the issuance thereof in an amount equal to the Supplemental Reserve Requirement, by depositing in the Supplemental Reserve Account an amount not less than one-twelfth (1/12) of one-tenth (1/10) (or such other amount as shall be acceptable to the Authority and as shall fund the Reserve Account over not more than 10 years) of the Supplemental Reserve Requirement or, if the Supplemental Reserve Account has been so funded (whether by Supplemental Bond proceeds, monthly deposits or otherwise), any amount necessary to maintain the Supplemental Reserve Account at the Supplemental Reserve Requirement;

(v) to provide debt service on and requisite reserves for any other subordinate indebtedness of the Governmental Agency held or owned by the Authority; and

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

SCHEDULE Z

Additional and Supplemental Definitions

1. "Local Statute" means Chapter 16, Article 13A, of the Code of West Virginia, 1931, as amended.

2. "System" means the 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, owned by the Governmental Agency, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever and includes the Project.

Additional Conditions and Covenants

1. As a condition precedent to the Authority's making the Supplemental Loan, the Governmental Agency shall have obtained, among other permits required, a permit from the West Virginia Department of Health.

2. The Local Act shall contain a covenant substantially as follows:

That the Governmental Agency will, to the full extent permitted by applicable law and the rules and regulations of the PSC, discontinue and shut off the services and facilities of the System to all users of services of the System delinquent in payment of charges for the services of the System and will not restore the services of the System until all delinquent charges for the services of the System have been fully paid.

3. Subject to any prior or parity obligations described in Schedules X and Y attached to the Supplemental Loan Agreement, and to the prior lien of the Local Bonds, the net revenues derived from the operation of the System are pledged to the payment of the principal of the Supplemental Bonds.

4. The paying agent for the Supplemental Bonds shall be the West Virginia Municipal Bond Commission or any successor to the functions thereof.





LUBECK PUBLIC SERVICE DISTRICT

WATER SYSTEM REVENUE BOND, SERIES A and B

MINUTES ON ADOPTION OF THE BOND AUTHORIZING
RESOLUTION AND THE SUPPLEMENTAL RESOLUTION

I, CHARLES H. HUFFMAN, JR., Secretary of the Public Service Board of Lubeck Public Service District, hereby certify that the following is a true and correct excerpt of the minutes of a special meeting of the said Public Service Board:

The Public Service Board of Lubeck Public Service District met in special session, pursuant to notice duly given, on the 28th day of March, 1990, at Parkersburg, West Virginia, at the hour of 8:00 o'clock, a.m.

PRESENT: James E. Smith
Charles H. Huffman, Jr.
Lee Johnson

Mr. Smith, Chairman, presided and Mr. Huffman acted as Secretary.

The Chairman announced that a quorum of members was present and that the meeting was open for any business properly before it. Thereupon, the Chairman presented a proposed Bond Resolution in writing entitled:

A RESOLUTION AUTHORIZING THE CONSTRUCTION AND ACQUISITION OF a WATER TREATMENT PLANT AND AN EXTENSION TO THE EXISTING WATERWORKS SYSTEM IN THE LUBECK PUBLIC SERVICE DISTRICT, WOOD COUNTY, WEST VIRGINIA, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF, THROUGH THE ISSUANCE BY THE LUBECK PUBLIC SERVICE DISTRICT OF NOT MORE THAN \$3,285,500 IN AGGREGATE PRINCIPAL AMOUNT OF WATER SYSTEM REVENUE BONDS, SERIES A AND SERIES B; PROVIDING

FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDERS OF SUCH WATER SYSTEM REVENUE BONDS; AUTHORIZING THE SALE OF SUCH WATER SYSTEM REVENUE BONDS TO THE WEST VIRGINIA WATER DEVELOPMENT AUTHORITY BY SUPPLEMENTAL RESOLUTION; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AND ADOPTING OTHER PROVISIONS RELATING THERETO.

and caused the same to be read and there was discussion. Thereupon, on motion of Mr. Huffman, seconded by Mr. Johnson, it was unanimously ordered that the said Resolution be adopted and be in full force on and from the date hereof.

Thereupon, the Chairman presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNT, DATE, MATURITY, INTEREST RATE, PRINCIPAL PREPAYMENT SCHEDULE, SALE PRICE AND OTHER TERMS OF THE WATER SYSTEM REVENUE BONDS SERIES A AND SERIES B OF LUBECK PUBLIC SERVICE DISTRICT; AUTHORIZING AND APPROVING THE SALE AND DELIVERY OF THE BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; APPROVING AND ADOPTING THE RATES AND CHARGES AS ESTABLISHED BY THE WEST VIRGINIA PUBLIC SERVICE COMMISSION IN THE ORDER GRANTING THE DISTRICT A CERTIFICATE OF CONVENIENCE AND NECESSITY; AND MAKING OTHER PROVISIONS AS TO THE SERIES A AND SERIES B BONDS.

and caused the same to be read and there was discussion. Thereupon, on motion of Mr. Johnson, seconded by Mr. Smith, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force 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.

James E. Smith
Chairman

Charles A. Huffman
Secretary

Lee Johnson
Member

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

WITNESS my signature on this 28th day of March, 1990.

Charles A. Huffman
Secretary as aforesaid

6819P

LUBECK PUBLIC SERVICE DISTRICT
WATER SYSTEM REVENUE BONDS
SERIES A AND SERIES B

GENERAL CERTIFICATE OF DISTRICT AND ATTORNEY

We, the undersigned CHAIRMAN and the undersigned SECRETARY of the public service board of Lubeck Public Service District in Wood County, West Virginia (the "District"), and the undersigned ATTORNEY for the District, hereby certify in connection with the \$3,285,500 aggregate principal amount of the Lubeck Public Service District Water System Revenue Bonds, Series A and Series B (collectively, the "Bonds"), as follows:

1. All capitalized words and terms used in this General Certificate and not otherwise defined shall have the same meaning as in the Bond Resolution of the District adopted March 28, 1990, and a Supplemental Resolution adopted March 28, 1990 (collectively, the "Local Act").
2. The District has duly performed all of its obligations to be performed at or prior to the closing on the Bonds.
3. The District has authorized, by all necessary action, the execution, delivery, receipt and due performance of the Bonds, the Local Act, the Registrar's Agreement and any and all such other agreements and documents as may be required to be executed, delivered and received by the District in order to carry out, give effect to and consummate the sale and delivery of the Bonds.
4. No controversy or litigation of any nature is now pending or threatened, to the knowledge of the undersigned, restraining, enjoining or affecting in any manner the issuance, sale or delivery of the Bonds, construction of the Project, operation of the System, receipt of the Gross Revenues, or in any way contesting or affecting the validity of the Bonds or any proceedings of the District taken with respect to the issuance or sale of the Bonds, the pledge or application of the Net Revenues or any other moneys or security provided for the payment of the Bonds or the existence or the powers of the District insofar as they relate to the authorization, sale and issuance of the Bonds, construction of the Project, operation of the System, or such pledge or application of moneys and security or the collection of the Net Revenues or pledge thereof.

5. All applicable approvals and certificates required by law for construction of the Project, operation of the System and issuance of the Bonds have been duly and timely obtained and remain in full force and effect, except for an NPDES Permit from the West Virginia Department of Natural Resources ("DNR"), for which the District submitted an application on March 7, 1989. By letters received in April 1989 and March 1990, the District has been advised by DNR that an NPDES Permit is expected to be issued as therein stated. Competitive bids for construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Code of West Virginia of 1931, as amended, which bids remain in full force and effect.

6. There has been no adverse change in the financial condition of the District since the approval and execution and delivery by the District of the Loan Agreement, and the District has met all conditions prescribed in the Loan Agreement entered into between the District and the Authority. There are no outstanding debt obligations of the District or obligations for which full and irrevocable provision for payment has not been made, which are secured by revenues or assets of the System.

7. The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended or changed in any way unless modification appears from later documents also listed below:

Order of the County Commission of Wood County creating Lubeck Public Service District.

Order of the County Commission of Wood County enlarging the boundaries of Lubeck Public Service District.

Orders of the County Commission of Wood County appointing current members to the Public Service Board of Lubeck Public Service District.

Certified copies of the oaths of office of current members of Public Service Board of Lubeck Public Service District.

Rules and Procedures of the Public Service Board of Lubeck Public Service District.

Affidavit of Publication of Notice of Borrowing and Filing of PSC Application.

Bond Resolution.

Supplemental Resolution.

Minutes of the 1990 Organizational Meeting and Minutes Adopting the Bond Resolution and the Supplemental Resolution.

Loan Agreement.

Supplemental Loan Agreement.

Public Service Commission Order entered January 16, 1990.

8. The proper corporate title of the District is "Lubeck Public Service District" and it is a public service district duly created by The County Commission of Wood County and presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the District is its Public Service Board consisting of three (3) members whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
James E. Smith	January 9, 1986	December 31, 1991
Charles H. Huffman, Jr.	December 11, 1989	January 1, 1996
Lee Johnson	December 28, 1987	December 31, 1993

The names of the duly enacted, qualified and acting officers of the Public Service Board of the District for the calendar year 1990 are as follows:

Chairman	-	James E. Smith
Secretary	-	Charles H. Huffman, Jr.
Member	-	Lee Johnson

The duly appointed and acting Counsel for the District is Ronning & Brown of Parkersburg, West Virginia.

9. All land in fee simple and all rights-of-way and easements necessary for the construction of the Project and operation and maintenance of the System have been acquired or can and will be acquired by purchase or, if necessary, by condemnation by the District and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes.

The costs thereof, including costs of any properties which may have to be acquired by condemnation are, in the opinion of all the undersigned, within the ability of the District to pay for the same without jeopardizing the security of or payments on the Bonds.

10. As of the date hereof, the District, the Wood County Development Authority and E. I. du Pont de Nemours & Co. ("du Pont") have entered into a binding agreement whereby du Pont will pay to the District for its existing well field and appurtenant facilities upon the execution of construction contracts for the Project the sum of \$869,000. Pursuant to the agreement du Pont will pay to the District the further sum of \$981,000 during construction of the Project.

11. All actions, resolutions, orders and agreements taken by and entered into by or on behalf of the District in any way connected with the construction, acquisition, operation and financing of the Project or the System were authorized or adopted at regular or special meetings of the Public Service Board of the District duly and regularly called and held pursuant to the Rules and Procedures of the Public Service Board (which is the governing body of the District) and all applicable statutes, including Chapter 6, Article 9A, of the Code of West Virginia of 1931, as amended, and a quorum of duly appointed, qualified and acting members of the Public Service Board of the District was present and acting at all times during all such meetings.

12. All contractors have been required to maintain Worker's Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Local Act. The System is not presently covered by policies of flood or business interruption insurance, but will be if such coverages are available at reasonable cost.

13. As of the date hereof, (i) the representations of the District contained in the Loan Agreement are true and correct in all material respects as if made on the date hereof; (ii) the Loan Agreement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and (iii) to the best knowledge of the undersigned, no event affecting the District has occurred since the date of the Loan Agreement which should be disclosed for the purpose for which it is to be used or which it is necessary to disclose therein in order to make the statements and information in the Loan Agreement not misleading.

14. The District has received a Final Order of the Public Service Commission of West Virginia entered January 16, 1990, granting a certificate of convenience and necessity for the Project and approving rates and charges for the services of the System and has adopted a resolution prescribing such rates and charges. The time for appeal of such Final Order has expired prior to the date hereof without an appeal having been filed.

15. On the date hereof, the undersigned Chairman of the Board did officially sign all of the Bonds of the aforesaid issue, all dated April 2, 1990, by his manual signature, and the undersigned Secretary did officially cause the official seal of the District to be impressed upon each of said Bonds and to be attested by his manual signature, and the Registrar did officially authenticate and deliver the Bonds to a representative of the Authority as the original purchaser of the Bonds under the Loan Agreement. Said official seal is also impressed above the signatures appearing on this certificate.

16. On the date hereof, the District received from the Authority the sum of \$3,139,013, the entire proceeds of the Series A Bond, and the sum of \$146,487, the entire proceeds of the Series B Bond.

17. The District has published a notice with respect to the acquisition and construction of the Project, anticipated user rates and charges, issuance of the Bonds and filing of a formal application for a certificate of convenience and necessity with the Public Service Commission of West Virginia, in accordance with Chapter 16, Article 13A, Section 25 of the Code of West Virginia of 1931, as amended.

18. The District shall at all times take, and refrain from taking, and shall not fail to take, any and all actions necessary in order to assure the initial and continued tax-exempt status of the Bonds. Less than 10% of the proceeds of the Bonds will be used, directly or indirectly, for any private business use, and less than 10% of the payment of principal of, or the interest on, such issue, under the terms of such issue or any underlying arrangement, is, directly or indirectly, secured by any interest in property used or to be used for a private business use, payments in respect of such property, or to be derived from payments (whether or not to the District) in respect of property, or borrowed money, used or to be used for a private business use. None of the proceeds of the Bonds will be used, directly or indirectly, for any private business use which is not related to the governmental use of the proceeds of the Bonds, including the disproportionate related business use of the proceeds of the Bonds, and none of

the payment of principal of, or the interest on, such issue, under the terms of any underlying arrangement, is, directly or indirectly, secured by any interest in property used, or to be used for a private business use, payments in respect of such property or to be derived from payments (whether or not to the District) in respect of property, or borrowed money, used or to be used for a private business use with respect to such private business use, which is not related to any government use of such proceeds, including the disproportionate business use of the issue of the Bonds. None of the proceeds of the issue of the Bonds will be used, directly or indirectly, to make or finance loans to persons other than governmental units. For purposes of this paragraph, private business use means use, directly or indirectly, in a trade or business carried on by any person other than a governmental unit, other than use as a member of the general public, all within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended.

19. On the date hereof, the undersigned Chairman did officially sign a properly completed IRS Form 8038-G and will cause such executed Form to be delivered in a timely manner to the Internal Revenue Service Center, Philadelphia, Pennsylvania.

20. Delivered concurrently herewith are true and accurate specimens of the Bonds.

21. Neither of the undersigned, nor, to the best knowledge of the undersigned, any member of the Public Service Board of the District, has any substantial financial interest, direct or indirect, or by reason of ownership of stock in any corporation, in any of the transactions contemplated by the Local Act or in any contract pertaining thereto.

IN WITNESS WHEREOF, we hereunto have set our respective signatures as such officials and have caused to be affixed the seal of the Lubeck Public Service District on the 2nd day of April, 1990.

LUBECK PUBLIC SERVICE
DISTRICT

[SEAL]

By: James E. Smith
James E. Smith, Chairman

And: Charles H. Huffman, Jr.
Secretary

Lawrence M. Ronning
Lawrence M. Ronning, Counsel
to District

6818P



REGISTRAR'S AGREEMENT

This Registrar's Agreement, made this 2nd day of April, 1990, between Lubeck Public Service District, a public service district organized and existing under the laws of the State of West Virginia, (the "District"), and One Valley Bank, National Association, a national banking association (the "Registrar").

WHEREAS, the District has, contemporaneously with the execution hereof, issued and sold its \$3,285,500 aggregate principal amount of Water System Revenue Bonds, Series A and Series B, in fully registered form (collectively, the "Bonds"), pursuant to its Bond Resolution and Supplemental Resolution adopted March 28, 1990 (collectively, the "Local Act");

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 Local Act, a copy of which is attached as Exhibit A hereto and incorporated herein by reference;

WHEREAS, the Local Act provides for an appointment by the District of a Registrar for the Bonds; and

WHEREAS, the District desires to appoint, and by the Local Act and this Registrar's Agreement does appoint, the Registrar to act as Registrar under the Local Act and to take certain other actions hereinafter set forth;

NOW, THEREFORE, the parties hereto agree as follows:

1. Upon the execution of this Registrar's Agreement by the District 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 Local Act, such duties including, among other things, the duties to authenticate, register and deliver the Bonds upon original issuance and when properly presented for exchange or transfer, and shall do so with the intention of maintaining the exclusion of interest on the Bonds from gross income for federal income tax purposes, in accordance with any rules and regulations promulgated by the United States Treasury Department or by the Municipal Securities Rulemaking Board or similar regulatory bodies as the District advises it of and with generally accepted industry standards.

2. The Registrar agrees to furnish the District with appropriate records of all transactions carried out by it as Registrar and to furnish the District 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 District 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 District.

4. As compensation for acting as Registrar pursuant to this Registrar's Agreement, the District hereby agrees to pay to the Registrar, from time to time, the compensation for services rendered as provided in the annexed fee schedule and reimbursement for reasonable expenses incurred in connection therewith.

5. It is intended that this Registrar's Agreement shall carry out and implement provisions of the Local Act with respect to the Registrar. In the event of any conflict between the terms of this Registrar's Agreement and the Local Act, the terms of the Local Act shall govern.

6. The District 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 Local Act 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 sixty (60) days written notice sent by registered or certified mail to the other party, addressed as follows:

If to the District: Lubeck Public Service District
 P. O. Box 700
 Washington, WV 26181
 Attention: General Manager

If to the Registrar: One Valley Bank, National Association
 Post Office Box 1793
 One Valley Square
 Charleston, WV 25326
 Attention: Corporate Trust Department

IN WITNESS WHEREOF, the District and the Registrar have executed and delivered this Registrar's Agreement in each of their respective names, all as of the day and year above first written.

LUBECK PUBLIC SERVICE DISTRICT

By James E. Smith
James E. Smith, Chairman

ONE VALLEY BANK, NATIONAL ASSOCIATION

By Charlotte S. Morgan
Charlotte S. Morgan, Corporate
Trust Administrative Officer

6817P

EXHIBIT A

LOCAL ACT

See Transcript Items #7 and #8

EXHIBIT B

SCHEDULE OF COMPENSATION

ACCEPTANCE FEE FOR SERVICE AS
REGISTRAR.....\$500.00



LUBECK PUBLIC SERVICE DISTRICT
(WEST VIRGINIA)

\$3,285,500 Water System Revenue Bonds
Series A and Series B

REGISTRAR'S CERTIFICATE

The undersigned, Charlotte S. Morgan, Corporate Trust Administrative Officer, of ONE VALLEY BANK, NATIONAL ASSOCIATION, Charleston, West Virginia, a national banking association (the "Bank"), hereby certifies as follows with respect to the above-captioned Bonds (the "Bonds").

1. The Bank has full power and authority to enter into and carry out the provisions of the Registrar's Agreement, dated as of April 2, 1990, between the Lubeck Public Service District (the "District"), and the Bank (the "Registrar's Agreement").

2. The person whose name, title and signature is set forth below holds the position shown opposite her name, and has been named and designated as an authorized officer of the Bank to authenticate and register the Bonds, to deliver certificates on behalf of the Bank in connection with the closing of the sale of the Bonds and to take any other actions required by the Registrar's Agreement.

<u>Name</u>	<u>Title</u>	<u>Signature</u>
Charlotte S. Morgan	Corporate Trust Administrative Officer	

3. The above-signed Charlotte S. Morgan was duly authorized to, and did on or prior to the date hereof, execute and deliver the Registrar's Agreement to the District on behalf of the Bank.

4. Pursuant to the Supplemental Resolution, the undersigned has received prior to the date hereof a request and authorization to the Bank on behalf of the District, signed by an authorized member of the Public Service Board of the District, to authenticate and deliver the Bonds to the Purchaser.

5. The Bank has received from the District on the date hereof the Bonds, in the respective numbers and denominations, maturing on October 1 of such years, and bearing interest at such rates, all as set forth in Exhibit A attached hereto and incorporated herein by reference. At the time of such receipt, each of the Bonds had been executed by the manual signature of the Chairman of the Public Service Board of the District, imprinted with the seal of the District, and attested by the manual signature of the Secretary of the Public Service Board of the District.

6. The Bank has duly authenticated the Bonds originally issued on April 2, 1990, and described in Exhibit A hereto, by manually executing on each of such Bonds a certificate in substantially the following form:

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Bonds described in the within-mentioned Resolution and has been duly registered in the name set forth above on the date set forth below.

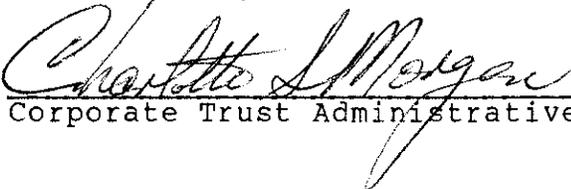
ONE VALLEY BANK, NATIONAL ASSOCIATION,
As Registrar

Date: _____

By _____
Its Authorized Officer

WITNESS the following signature this 2nd day of April, 1990:

ONE VALLEY BANK, NATIONAL ASSOCIATION

BY 
Corporate Trust Administrative Officer

6816P

EXHIBIT A TO REGISTRAR'S CERTIFICATE

LUBECK PUBLIC SERVICE DISTRICT

\$3,285,500 Water System Revenue Bonds
Series A and Series B

TERMS OF THE SERIES A AND SERIES B BONDS

a. The Series A Bond designated R-1 shall be issued in the form of a single bond in typewritten form fully registered to the West Virginia Water Development Authority, in the denomination of \$3,139,013.00, with interest thereon at the rate of 7.85% per annum payable semi-annually on October 1 and April 1, first interest payable on October 1, 1990, representing the aggregate principal amount of the Series A Bond issue and shall mature in principal installment on October 1 of each year as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1991	\$ 13,648.00	7.85%
1992	14,720.00	7.85%
1993	15,876.00	7.85%
1994	17,122.00	7.85%
1995	18,466.00	7.85%
1996	19,915.00	7.85%
1997	21,479.00	7.85%
1998	23,165.00	7.85%
1999	24,983.00	7.85%
2000	26,945.00	7.85%
2001	29,060.00	7.85%
2002	31,341.00	7.85%
2003	33,801.00	7.85%
2004	36,455.00	7.85%
2005	39,316.00	7.85%
2006	42,403.00	7.85%
2007	45,731.00	7.85%
2008	49,321.00	7.85%
2009	53,193.00	7.85%
2010	57,368.00	7.85%
2011	61,872.00	7.85%
2012	66,729.00	7.85%
2013	71,967.00	7.85%
2014	77,616.00	7.85%
2015	83,709.00	7.85%
2016	90,280.00	7.85%
2017	97,367.00	7.85%
2018	105,011.00	7.85%

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
2019	113,254.00	7.85%
2020	122,144.00	7.85%
2021	131,733.00	7.85%
2022	142,074.00	7.85%
2023	153,227.00	7.85%
2024	165,255.00	7.85%
2025	178,228.00	7.85%
2026	192,218.00	7.85%
2027	207,308.00	7.85%
2028	223,581.00	7.85%
2029	241,132.00	7.85%

b. The Series B Bond designated R-1 shall be issued in the form of single Bond in typewritten form, fully registered to the West Virginia Water Development Authority, in the denomination of \$146,487.00, without interest, representing the aggregate principal amount of the Series B Bond issue, and shall mature in principal installments on October 1, of each year after date as follows:

<u>Year</u>	<u>Installment</u>
1991	\$3,755.96
1992	3,756.08
1993	3,756.08
1994	3,756.08
1995	3,756.08
1996	3,756.08
1997	3,756.08
1998	3,756.08
1999	3,756.08
2000	3,756.08
2001	3,756.08
2002	3,756.08
2003	3,756.08
2004	3,756.08
2005	3,756.08
2006	3,756.08
2007	3,756.08
2008	3,756.08
2009	3,756.08
2010	3,756.08
2011	3,756.08
2012	3,756.08
2013	3,756.08
2014	3,756.08
2015	3,756.08
2016	3,756.08
2017	3,756.08

<u>Year</u>	<u>Installment</u>
2018	3,756.08
2019	3,756.08
2020	3,756.08
2021	3,756.08
2022	3,756.08
2023	3,756.08
2024	3,756.08
2025	3,756.08
2026	3,756.08
2027	3,756.08
2028	3,756.08
2029	3,756.08

6816P



PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

Entered: January 16, 1990

CASE NO. 89-160-PWD-CN

LUBECK PUBLIC SERVICE DISTRICT,
a public utility, Washington,
Wood County.

Application for a certificate of
convenience and necessity to
construct a water treatment plant,
two 200,000 gallon water storage
tanks, etc., within the territorial
boundaries of Lubeck Public Service
District, Wood County.

CASE NO. 88-781-W-PC

LUBECK PUBLIC SERVICE DISTRICT,
a public utility.

Request for approval of moratorium
on water line extensions.

CASE NO. 89-442-PWD-C

JUDY TUCKER, et al., Route 3, Box 538,
Parkersburg, Wood County,

Complainants,

vs.

LUBECK PUBLIC SERVICE DISTRICT,
a public utility,

Defendant.

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

On May 24, 1989, Lubeck Public Service District (District) filed an application for a certificate of convenience and necessity to construct a water treatment plant, two 200,000 gallon water storage tanks, 7,500 linear feet of 12-inch water main, 18,500 linear feet of 10-inch water main, 23,100 linear feet of 8-inch water main, 65,200 linear feet of 6-inch water main, two booster stations and appurtenances within the territorial boundaries of the District. The construction would cost approximately \$8,500,000 with financing not to exceed \$8 million obtained from the West Virginia Water Development Authority (WDA). The District

proposed to sell existing water treatment facilities and wells, located at Rector Lane, to DuPont for \$1,850,000. The rates were estimated by the District to be a monthly customer charge of \$8.50 and a per 1,000 gallon charge of \$3.60.

Notice of the application was given by publication in a newspaper published and of general circulation in Wood County. A Certificate of Publication indicating that proper notice was given has been received by this Commission. Protests to the application were received.

In a separate case designated Case No. 89-442-PWD-C, Judy Tucker and other property owners, on July 7, 1989, filed a complaint against the District. Ms. Tucker, in her complaint, alleged that she and other property owners on Larkmead Road had to incur out-of-pocket expenses of \$1,260 (\$50,000 in total), plus their tap fees, to get water service, whereas the property owners of Lost Pavement (part of the potential customers to be served in the certificate case) will only be required to pay a tap fee to get water services under the proposed certificate case. She felt that this violated West Virginia Code §24-3-2, which states, "No public utility . . . shall, directly or indirectly, by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person, firm or corporation, a greater or less compensation for any service rendered or to be rendered, than it charges, demands, collects or receives from any other person, firm or corporation for doing like and contemporaneous service under the same or substantially similar circumstances and conditions." (Petition).

Prior to the filing of the above two cases, on November 3, 1988, in Case No. 88-781-W-PC, the District had requested a moratorium on additional water connections. The District's petition stated that there had been a depletion of the District's well field and service to its customers could be impaired without the moratorium. Approval of the moratorium was recommended by Staff and a conditional moratorium was granted, by Order dated July 6, 1989, subject to public notice. Several Protestants filed petitions objecting to the conditional moratorium.

Because the three cases had overlapping issues, they were set for hearing at the same time. Upon proper notice being given, a hearing was held in the Lubeck Community Building, Lubeck, West Virginia, on November 8, 1989, at 10:30 a.m. Appearing at the hearing was Lawrence M. Ronning, Esq., representing the Applicant; Patrick E. McFarland, Esq., representing LMH (a group of potential customers who were going to receive water service in the District's original certificate, but who, because of an agreement in principle between the District and Commission Staff, will not receive water service under the certificate case); Philip E. D'Orazio, Esq., representing Judy Tucker (Complainant in Case No. 89-442-PWD-C), and the Larkmead residents; and Ron Robertson, Esq., representing the Commission's Legal Division. Upon the Administrative Law Judge's inquiry to the audience if anyone wanted to be recognized as a protestant, Dick Herman and Cherri Roberts indicated they were Protestants. (Tr., p. 6). Ms. Roberts wanted her protest to be against the rate increase and the treatment plant itself, if that is going to cause her rates to triple. There had been some confusion about whether her protest was against the

project or the moratorium because the moratorium case number was cited in the petitions submitted by her. (Tr., p. 7).

As a preliminary matter, Mr. Ronning amended the District's request in the moratorium case. The District amended its moratorium petition to request a moratorium on all line extensions and any new connections which would involve multiple taps, such as subdivisions or apartment buildings, until the new system is operational, except for three commitments for service previously agreed to by the District. (Tr., p. 10). The District would like permission to connect single residential taps between the beginning and the terminus of its existing lines. (Tr., pp. 10 and 11).

PRESENTATION OF EVIDENCE

The District presented witness Philip R. Postelwait, Jr., the CPA who prepared the District's Rule 42 Exhibit. (Tr., p. 13). He said that the basic reason for the new treatment plant is that the District, in its present location, does not have an adequate water supply to meet its present needs. The facility is land-locked by industries on both sides and, thus, the District's well field cannot be expanded. He stated that DuPont is on one side of the well field and G. E. Plastics is on the other side. The well field has fully saturated the existing water table production. (Tr., p. 14). DuPont offered to purchase the District's water treatment plant for \$1,850,000. (Tr., p. 14). The original agreement with DuPont, wherein DuPont would purchase the District's treatment plant, terminated on November 1, 1989; however, an amendment to that agreement extends the contract to July 1, 1990, and abates all penalties related to the original contract. (Tr., p. 15). The District has 2,800 customers with a growth rate of approximately 75 to 100 each year. (Tr., p. 17). Mr. Postelwait stated that the District has agreed to accept the Staff's recommendations with regard to all the financial matters in the application -- the new plant will be built; the new wells will be installed; one storage tank will be installed instead of two; there will be some water line installation; and there will be construction for offices and storage facilities. The District has agreed to the deletion of the construction of the extension to the LMH area. He said the construction costs are much in excess of the 3-1/2 times the annual revenue from those potential customers, and that it is not cost-effective to install those lines. Because there are numerous changes in the numbers and figures of the District's Rule 42 Exhibit, he deferred to Staff for those numbers and recommendations. (Tr., p. 18).

Commission Staff, at that time, called Sterling E. Bare, Utilities Analyst with the Public Service Commission. (Tr., p. 21). Mr. Bare prepared the Staff Rule 42 Exhibit and amended Statements A and H. (Tr., pp. 22 and 23). Mr. Bare stated that there is a need for the project created by a lack of capacity of the present well field, the inability to expand the existing well field and the potential customer growth in the area. Staff recommended approval of the revised project, the sale of the existing plant to DuPont, the WDA bond issuance in an amount not to exceed \$3,288,000, and increased rates. Staff's Revised Cash Flow Statement reflects that, due to the addition of the new plant and tanks, there will be an increase in operating expenses and debt. The new revenue requirements will be approximately 64% over the existing revenue

requirements. Under the current rates, the average bill of 5,400 gallons would be approximately \$10.10, and under the revised project, an average bill would be \$16.69. The revised revenue requirement allows debt service coverage of 118%. Mr. Bare stated that the project will be funded from the proceeds of the sale of the existing plant to DuPont in the amount of approximately \$1,800,000, cash on hand of approximately \$70,000, bond issuance from the WDA of \$3,200,000, and interest earnings during construction. The bond issuance is for 38 years at an estimated interest rate of 8%. The total construction cost of the project as recommended by Staff is \$5,427,000. (Tr., p. 28). There is no interim financing. (Tr., p. 38).

Staff has estimated that the LMH project would cost \$2,132,000. This consists of lines, tank and a booster station, and the \$2,132,000 is above and beyond the total reflected in the Staff recommended construction cost of the project. (Tr., p. 30). Mr. Bare indicated that any expansion is a balancing act between how much the existing customers and the potential customers have to pay for the extension. The Commission has a rule with regard to extensions which states that a utility (and its existing customers) should contribute an amount equal to 3-1/2 times the annual revenue from potential customers for any extension construction, with the balance of the cost of the extension being borne by the customers seeking additional service. He said that the LMH area has approximately 141 potential customers who have signed Users Agreements and that it is not economically feasible to serve that number of customers at the projected extension costs. (Tr., p. 31). Mr. Bare indicated that, if potential customers in the LMH area agreed to a surcharge of more than \$60.00 per month per customer, in addition to their Staff recommended rates, the potential LMH customers would be contributing their share of construction costs. However, he determined that was an unreasonable rate for the Commission to approve without the customers having notice of the potential rate and agreeing to it.

Mr. McFarland, attorney for the potential LMH customers, inquired if this is the first public service district to which the Extension Rule is being applied, and Mr. Bare replied that the extension rule has been in existence for several years at the Commission. If the District were allowed to increase its borrowing, the burden of the debt service alone, aside from the administrative and engineering costs, would increase the rates to the potential LMH customers beyond those rates which the Commission would approve. (Tr., p. 33). Mr. Bare analyzed the capital cost per customer for the residents in the LMH area and determined it to be about \$15,000 per customer, which was higher than for the balance of the system construction. (Tr., pp. 36 and 37).

With regard to the LMH portion of the project and its nonfeasibility, Mr. Bare said, upon cross-examination, that the Commission does not approve surcharges after main line extensions. (Tr., p. 44). Mr. Bare indicated that he had reviewed alternative funding, the possibility of elevated tap fees and other methodologies in trying to arrive at a reasonable rate for the potential LMH customers. (Tr., p. 45). Even the amount of customer contribution discussed in Ms. Tucker's complaint of \$750 to \$1,500 per customer for new service is much less than the cost which would have to be imposed upon the potential LMH customers to get

water service to them. (Tr., p. 46). Mr. Bare discussed estimations of what the surcharge on the LMH customers would be. (Tr., p. 52).

Charles E. Windham, Jr., also appeared on behalf of Commission Staff. Mr. Windham prepared an Exhibit containing allocation factors reflecting usage responsibilities for serving each class of customer. The allocation factors are used by the Commission's rate analyst to allocate revenue requirements by class as a basis for rate design. Mr. Windham further stated that the Department of Health permits for the project have been filed and are available for the Administrative Law Judge's review, although the NPDES Permit from the Department of Natural Resources (DNR) for the backwash effluent has not been issued. (Tr., p. 59). Staff requested a copy of the proposed site plan for the new office building. (Tr., p. 59).

Mr. Windham indicated that the plant was adequately designed to properly treat the water. (Tr., p. 61). He said that the plans and specifications for the project met Commission rules and regulations. (Tr., p. 61).

Jane Weise Haley, Utility Financial Analyst, testified to a Class Cost of Service and Amended Class Cost of Service Study which she prepared. (Tr., p. 63). The revenue requirements were determined per customer class and a rate was developed. The rates for the first 5,000 gallons per month will be \$3.15 per 1,000 gallons. The next 95,000 gallons used per month will be at a rate of \$2.35 per 1,000 gallons and all over 100,000 gallons will be at a rate of \$1.01 per 1,000 gallons. The minimum bill, based on 3,000 gallons, is \$9.45, and the average bill for 4,500 gallons is \$14.18. (Tr., p. 66). A reconnection fee of \$30 is included and a service connection charge of \$250 is recommended by Staff for approval. (Tr., p. 67). Staff deleted a multiple-occupancy clause that was in the District's present tariff because it does not comply with Commission policy. (Tr., p. 72).

It was pointed out by Mr. D'Orazio that, although the metered water usage is the basis of both the water and sewer rates, the rate for each is an individually determined item and this hearing does not have an effect on the sewer rates. This fact was discussed several times throughout the hearing because there was confusion as to whether this construction would increase sewer rates, which, of course, it does not. This application involves strictly the water utility and water rates.

Ron Schultz, professional engineer with Burgess and Niple, Limited, was the District's next witness. He indicated that, with the Department of Natural Resources being understaffed, the project would be fortunate if the previously discussed effluent permit were issued prior to construction being completed. Mr. Schultz submitted the Permits to Construct from the West Virginia Department of Health covering the installation of two elevated storage tanks and supporting water mains; the construction of the 2,600,000 gallon per day treatment plant; the construction of two booster stations and two properly constructed public water supply wells; and the installation of 100,000 feet of water main. (Tr., p. 77). Mr. Schultz's firm designed the treatment facility and he testified that it was adequately designed for present customers and reasonable growth. The

plant is designed for 2,400,000 gallons per day production and the average production of the District is 800,000 gallons per day. (Tr., p. 80).

Bill Packard, Manager of the District, indicated that he tests the wells every three months for possible contamination or violations of the Safe Drinking Water Act and the test results are well within the regulations. (Tr., p. 83). Upon questioning, Mr. Packard said that he did not believe that the LMH area would not be in the same aquifer as the District's existing wells. (Tr., p. 83).

The two persons who wished to be recognized as Protestants were next asked to make their statements. Richard Herman, Protestant and a member of the Board of Directors at Bethel Place Homeowners Association, made a statement first. He does not necessarily propose that the District tie-in with the Parkersburg Water Board, but he has been told that a city customer can receive water, sewer, police fees and trash hauling for \$35.00 a month. He feels that some comparison between the District's fees and the fees of other utilities in the area should be made before increasing the District's water fees. (Tr., p. 97).

Cherri Roberts of Wakefield Addition, Washington, West Virginia, who also was recognized as a Protestant at the beginning of the hearing, made a statement. She received a brochure from the District, which stated that her water bills, when compared with other areas, were low. She had obtained bills from other areas which showed that her water bill was higher than in those areas. She uses between 7,800 and 12,000 gallons of water per month, which the Administrative Law Judge labels as high residential consumption of water. Because of her daughter's kidney problems, she stated her family buys bottled water to drink. She felt the water charges would be excessive after the rate increase.

Ms. Roberts said that the District Board members work with water at DuPont and she feels that there is a conflict of interest. (Tr., p. 103). She further was worried about the potential for a rate increase in two years. She said that there were people in the area on fixed and low incomes who could not pay an increased bill. She said the New England Ridge customers were against the proposed LMH line for the simple reason that, when they asked the District for water services, they were turned down and were told that if they wanted water they would have to install the lines themselves. (Tr., p. 105).

One question from the audience was if it was normal for a system to have a 10% water loss. Mr. Windham responded that the Commission's rules allow a 15% water loss and many utilities have higher unaccounted-for water than that percentage. To him, a 10% water loss is very good for a system which is 30 years old. (Tr., p. 109).

Other persons desired to speak who did not previously indicate that they wished to be protestants. Sally Burnette lives in Meadowlane, in Lubeck, and stated that the water system came about when DuPont started buying up all the land around the water system. She stated that she did not need a new tower for water pressure because she has plenty of pressure and, in fact, has to use a pressure reducer. She thinks if DuPont wants

to shut down the water plant, it should buy another for the customers. (Tr., p. 111).

Jerry Bailey, who resides outside the District's service area, has to have water delivered to his home which costs him \$31.50 for 2,000 gallons. Alternatively, he buys his water from Belpre or Parkersburg, filling a 400 gallon tank on the back of his pickup for \$1.00. He requested that, when the plant is built, an outside tap is provided that is open to the public so he could use it. (Tr., p. 112).

Keith Burdette, State Senator for the legislative district, indicated that he has received significant numbers of letters and phone calls from citizens concerned with the proposed rate increase. A water rate increase of 64%, such as is proposed here, is a significant increase by any standard. He indicated that there has been a poor job of communication, a great deal of miscommunication, and a great deal of fear about the rate increase and the motivation and the need for the size of the project. He said that, since it appeared from the testimony that 800,000 gallons of water a day is present usage and the plant was designed to provide 2,400,000 a day, perhaps it was oversized. He indicated that many of the people in the area are living on fixed incomes and a 64% rate increase is scary for those folks. (Tr., p. 114). He was concerned about the LMH area construction being removed from the project and felt that alternative funding should be sought. Mr. Burdette further added that these public hearings held in the morning mean that the only folks who can participate are either professionals who can take off their jobs, housewives who do not have a job or retired citizens. He indicated that earlier on the day of the hearing, a lot of people came and were obviously squelched in their attempt to testify. (Tr., p. 115).

Mr. Ed Florence, of Lost Haven, in the LMH area, stated that he was glad that the District's Board members endeavored to try to get water to the LMH area and he chastised Staff for implementing a law for the first time, which kept his area from getting water service. (Tr., p. 116). He has been trying to get water from Mineralwells and Parkersburg for about 15 years. (Tr., p. 117).

At the conclusion of the presentation of evidence, Mr. McFarland was given a period of two weeks to respond if he desired to present engineering and other evidence in support of the extension to the LMH area. Several more than the two weeks have elapsed and no correspondence has been received from Mr. McFarland. The ALJ concludes that sufficient time has elapsed to have allowed for a response and the time period for a response is now closed. A letter was received on January 15, 1990, from Mr. McFarland indicating the LMH potential customers did not feel further efforts in this case would result in water service to them and they do not wish to hold up the proposed project. (January 12, 1990 letter from Patrick E. McFarland, Esq.)

DISCUSSION

With the District's agreement with Staff to delete the LMH construction from the project, there was an amendment of the District's certificate. Such an amendment is well within the District's authority to

make. The ALJ makes this observation because technically it was unnecessary for the parties to present evidence to support the deletions made by that amendment; however, because those comments and support contain valuable information which the public should have, the ALJ discusses them. It should be noted that the two major protesting groups -- the Judy Tucker group and the LMH group -- have withdrawn their protests to the project.

In a certificate case, the first issue to be addressed is whether the public convenience and necessity require the proposed project. Here we have a 30-year old plant operating a significant number of hours in a day in a well field with limited producing capacity and some hint of possible future contamination. The contamination issue was not developed fully in the record. Staff acknowledged that contamination was a possibility, but later the manager of the District testified that water tests revealed that there is no present contamination. In the District's request for approval of a moratorium on water service in Case No. 88-781-W-PC, the District provided information that the average pumping time of the system was 20.25 hours per day and the system had to be operated on a 24-hour pumping period during peak demands. The moratorium was recommended for approval by Staff and a Commission Order granted a temporary moratorium. The Order cited as grounds for the moratorium, in addition to the pump time, that, while the District can supplement its water supply from its new well field, the water from the new well field contains high levels of iron and manganese and the Department of Health will only allow water from the new field to be blended with water from the original well field during times of an emergency. Based upon the foregoing, the ALJ concludes that the public convenience and necessity require the proposed project.

The next aspect of the certificate case is whether the project will provide adequate service. The plans and specifications for the project have been approved by the Department of Health, which agency has primary responsibility for the design of water systems, and the necessary permits have been issued by that agency to allow construction to begin. At the time of the hearing, one discharge permit had not been issued. Both Staff and the consulting engineers stated that the Department of Natural Resources is backed-up in its issuance of these permits and it will be some months before that permit is issued. There appears to be no significant reason to assume that this permit would not be issued before the plant is placed in service. Although it was alleged by some that the treatment plant was oversized, the ALJ has no evidence to support that contention. The documents in the District's application show that, although the plant will produce beyond current needs, the plant was designed to match the potential production capacity of the well field, which appears to be a reasonable design technique. The ALJ concludes that, with the issued permits and the testimony of both the District's and Staff's engineers, the project is properly designed and the proposed project will provide adequate service.

A third issue in a certificate is whether the project is adequately financed. Before the hearing, Staff recommended the deletion of a portion of the construction which was an extension line to an area known as "LMH". The District agreed to the deletion of that extension construction and accepted Staff's recommendation of revisions to the project prior to the

hearing. The revised project cost is adequately financed. The revised project cost is \$5,427,000. There are sufficient sources of funding to cover the costs of construction as amended.

The economic feasibility of the project is the fourth issue to be addressed. This application as originally filed had two portions to it -- the first part being the construction of the treatment plant, and the second part being the construction of the extension to the LMH area. Staff concluded that the project as amended was economically feasible and the ALJ agrees and concludes likewise.

If the 141 potential customers in the LMH area were added to the project, the construction cost would increase approximately \$2,132,000. (Tr., pp. 38 and 39). The reason for Staff's recommendation that the extension be deleted is that the cost of the extension was excessively high in relationship to the number of customers who will be served by such construction. The District's originally projected rates, which included the potential LMH customers, would result in a rate of \$27.94 for 5,400 gallons. The final Staff recommended rates, which did not include service to the potential LMH customers, averaged \$16.69 for 5,400 gallons usage. Staff concluded that the present customers should not have to bear that much of a rate increase to get water to the LMH customers.

Although at times it may be the nature of utility rates that costs to serve some customers are spread over a larger customer base, this is not always the case. In this case, the dollar amount per customer to provide water service to the potential LMH customers was too much, plus there were protests alleging discrimination on the District's part in seeking to serve these potential customers at total costs that were less than other customers had been required to pay for water services. Many of the District's customers felt they had been penalized by having to make extensions for water service at their own expense when the potential LMH customer would not have to bear anywhere near the same costs. There always is the question of equal protection and non-discrimination among customers, but the ALJ believes Staff's analysis that the present customers should not have to bear so much of the costs of getting service to the LMH area was correct.

Staff also considered that, if the LMH customers were to support the construction costs of getting service by paying a surcharge, the surcharge would amount to approximately \$100 per month per customer, in addition to the rates for water recommended by Staff. Staff concluded that this amount was too high for it to be condoned as a public utility rate. Here, the cost of water to the potential LMH customers may well be worth it, but the ALJ would not have approved such a surcharge without notice to and approval of the potential customers. Other potential customers have concluded that the convenience and necessity of potable water was of such a value to them that a contribution of approximately \$1,000 or more was made by each potential customer. These were the customers at Larkmead. However, in this instance, Staff concluded that the LMH project was so much more expensive on a per customer basis, that the extension was not economically feasible.

Staff proposed a theory of what it thought was a reasonable allocation of costs between present and potential customers, i.e., the Main Line Extension Rule (Rule 5.05). Although Staff referred to "application of the Rule," (meaning the Extension of Mains, Rule 5.05), the ALJ feels that technically the Rule could not apply in this situation, but the concept has some merit. This concept is probably the one clear instance in the Commission's Rules which attempts to allocate costs between present and potential customers. Although it has not been directly used in previous certificate cases, it, nonetheless, provides a method which has been upheld by the Commission as being valid in the allocation of these types of costs. Many certificate cases do not have the issue of allocation of costs between present and potential customers as clearly defined as in this case. Here, there is basically an improvement and an extension. It may not have been necessary for Staff to have reviewed the reasonableness of such an allocation of costs in many other certificate cases.

It should also be noted that Staff's use of this theory may be valid in this case because the issue of discrimination is clearly alleged. The Tucker Protestants objected to the costs of construction for service to the potential LMH customers because they had paid \$1,260 plus a tap fee to get water service. Other potential customers apparently had been denied service by the District because these prospective customers could not make an adequate capital contribution to make the extension. The ALJ does not have to address the discrimination issue because the District amended its application and the Tucker Protestants withdrew their objection to the project, as long as the potential customers in the LMH area are excluded from the project. (Tr., p. 108).

The ALJ concludes that Staff's analysis of the nonfeasibility of the LMH area construction is reasonable and Staff had properly recommended that the LMH construction be deleted from the project. Although all parties involved in this proceeding realize the value of water service to the residents of the LMH area, the costs of obtaining said service must be considered. The use of the 3-1/2 times theory is a valid determinate in those instances where a significant portion of a project represents what may be generally described as the equivalent of a main line extension.

The rates and charges as recommended by Staff are adequate to provide for the debt service and increased operation and maintenance expenses. These rates provide sufficient revenues, but not more than sufficient revenues, to cover these costs. The ALJ has reviewed the rate increase. The average bill of \$14.49 is well within a range of rates that have been determined in other certificate cases and rate cases to be reasonable. Therefore, the ALJ concludes that the District's rates as recommended by Staff should be approved.

With regard to the moratorium case, it should be noted that, by supplemental letter dated December 15, 1989, Lubeck provided letters it had written to the Winer Company dated July 20, 1988, to McPhearson Manor, dated July 12, 1987, and Riverview Acres, July 23, 1986. These letters made commitments to serve these developers with multiple taps. These submissions were in support of the District's amendment of its moratorium request to exclude these commitments from the moratorium.

The Administrative Law Judge concludes that the District's request to amend the moratorium to recognize those commitments entered into prior to the moratorium request, as reflected in the abovementioned three letters, is reasonable. Also it is reasonable to serve single taps on the existing system. The moratorium should be, and hereby is, granted. The moratorium shall remain in effect for a period of 18 months, or until Lubeck Public Service District's project to construct a new water treatment plant and additional storage capacity is completed, whichever comes first. This moratorium shall not apply to single tap connections made on existing lines, nor to those three written commitments to serve developers in the letters dated July 20, 1988, June 12, 1987 and July 23, 1986.

With regard to the complaint of Judy Tucker, et al., it is the Administrative Law Judge's conclusion that, with the elimination of the LMH portion of the project, Ms. Tucker's complaint is satisfied. Ms. Tucker's attorney withdrew her complaint, so long as the potential LMH customers are not included in the project. (Tr., p. 108).

Protestant Herman's observation about competing rates has been considered. The District's rates, although not directly compared with utility rates in the surrounding areas, are based on the costs of providing the service. Staff has reviewed the District's rates and determined that those rates are sufficient, but not more than sufficient, to cover the revenue requirements needed to support the operation of the system.

It appears that Protestant Roberts' discussion of the conflict of interest between the Board members who work for DuPont and the sales contract with DuPont to purchase the plant, may be valid. The ALJ did not have testimony before her to conclude that there is a conflict of interest, but it deserves further investigation. The ALJ directs Staff to investigate and determine if there is a conflict of interest with the employment of the existing District Board members and the sale of the existing plant to DuPont. Staff should report its findings in writing by February 28, 1990.

Mr. Bailey's request for an outside tap at the plant where he could purchase water for his personal use which he would transport himself appears to be a reasonable request and it should be considered by the District's engineers.

Senator Burdette made the observation that grant funding should be obtained to try to get services to the residents of the LMH area. The ALJ, and I am sure Staff, likewise, concurs in that suggestion. It always has been the Commission's goal to have public utility services as widely available as possible. The ALJ encourages the consulting engineers to use innovative approaches, although always within sound engineering judgment, to see if any savings can be effected, whereby any part of the LMH customers could be served.

Senator Burdette's other comments were considered. It is this ALJ's goal to provide a full and fair hearing on the issues involved. His comments that protestants were squelched by the timing or import of the hearing was also considered. The Commission has leaned over backwards to

have night hearings when they are requested, but in this instance, no night hearing, to the best of the ALJ's knowledge, was requested. It should further be noted that the ALJ attempted and did, in fact, succeed, in letting all Protestants who desired to do so speak in protest to the project or make statements involving the project. A certain amount of order and decorum must be maintained in these quasi-judicial proceedings, in order to provide an environment conducive to a fair hearing. The ALJ notes again, to the best of her knowledge, every Protestant or person in the audience desiring to make a statement was allowed an opportunity to be heard.

FINDINGS OF FACT

1. The Lubeck Public Service District filed an application for a certificate of convenience and necessity to construct a water treatment plant, two 200,000 gallon water storage tanks, 7,500 linear feet of 12-inch water main, 18,500 linear feet of 10-inch water main, 23,000 feet of eight-inch water main, 65,200 linear feet of six-inch water main, two booster stations and appurtenances within the territorial boundaries of the District, and said application was amended to delete the construction of the potential LMH extension, including lines, tank and booster station. (Petition and Tr., p. 40).

2. Notice of the application was given by publication in a newspaper published and of general circulation in Wood County and protests to the application were received. (Certificate of Publication).

3. Judy Tucker and other property owners on Larkmead Road filed a formal complaint against the District on July 7, 1989, alleging that the inclusion of the LMH portion of the project violates West Virginia Code §24-3-2, which states, "no public utility . . . shall directly or indirectly, by any special rate, rebate, drawback or other device or methods, charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered to or to be rendered, than it charges, demands, collects or receives from any other person, firm or corporation for doing like and contemporaneous service under the same or substantially similar circumstances and conditions", since she and the other property owners on the Larkmead Road area had to pay out-of-pocket expenses to get water service. (Complaint).

4. The District provided notice by publication of a conditionally approved moratorium request to limit further water service in the District and, at the scheduled hearing, amended its request to limit all further line extensions and any new connections involving multiple taps, except for three commitments for service to developers made prior to the moratorium petition. This amendment would allow the District to continue to connect single residential taps between the beginning and terminus of its existing lines. (Petition; Tr., pp. 10 and 11).

5. The District's existing water system consists of a 30-year old plant operating a significant number of hours per day in a well field with limited producing capacity and no possibility of expanding that well field. (Case No. 88-781-W-PC, Order Granting Conditional Moratorium Subject to Notice and Protest; Tr., pp. 13 and 14, 24-30).

6. DuPont has offered to purchase the District's existing water treatment plant for \$1,850,000. (Petition attachment).

7. The financing for the project will be the sale proceeds from the existing plant; a WDA bond issuance not to exceed \$3,288,000; cash on hand of approximately \$70,000; and interest earnings during construction.

8. The WDA bond is for a 38-year period at an estimated interest rate not to exceed 8%. (Petition; Tr., p. 28).

9. The total construction cost of the project is \$5,427,000. (Petition application as amended; Tr., p. 28).

10. There is no interim financing. (Petition; Tr., p. 38).

11. The revised proposed rates and the rates recommended by Staff are contained in Appendix A, attached hereto. (Tr., p. 66).

12. An average bill for 4,500 gallons is \$14.18. (Tr., p. 66).

13. Permits to Construct from the West Virginia Department of Health were granted for the installation of the two elevated storage tanks and supporting water mains; the construction of the 2,600,000 gallon per day treatment plant; the construction of two booster stations and two properly constructed water supply wells; and installation of the 100,000 feet of water main. (Tr., pp. 77; application).

14. Ron Schultz, professional engineer, testified that the project was adequately designed for present customers and reasonable growth. (Tr., p. 80).

15. Protestant Roberts noted that she felt there was a conflict of interest with District Board members being employed by DuPont and, at the same time, executing an agreement with DuPont to purchase the existing treatment plant. (Tr., p. 103).

16. Ms. Roberts, Protestant, further noted that the people in the area were on fixed and low incomes and could not bear the cost of increased bills. Lastly, she stated that the New England Ridge customers had protested the LMH portion of the line simply because those potential customers had been turned down because they could not bear the costs of the capital contributions required to put the line in themselves and it was unfair to allow the potential LMH customers to receive water service without paying a like amount. (Tr., p. 105).

17. A moratorium has previously been approved by the Commission in Case No. 88-781-W-PC, Order Granting Conditional Moratorium Subject to Notice and Protest, which addressed the pumping time and also the fact that the District's well field is limited in its producing capacity and the District's new well field has high levels of iron and manganese, which can only be blended with water from other well fields during times of emergency.

CONCLUSIONS OF LAW

1. With the District's agreement with Staff to delete the LMH portion of the construction project, the ALJ does not need to discuss, except briefly, the LMH portion of the project, since the District revised its application and there was no substantive evidence supporting the inclusion of the LMH portion of the project for the ALJ to consider.

2. The public convenience and necessity require the proposed project, as amended. There is a 30-year old plant operating an average pumping time of the system of 20.25 hours per day and at times operating 24 hours per day at peak demand, which indicates a need for revisions of the system. For these reasons and the reasons stated in the moratorium case, the ALJ concludes that the public convenience and necessity require the proposed project.

3. The proposed project should provide adequate service, since the plans and specifications for the project have been approved by the Department of Health and Commission Staff has reviewed the plans and specifications and found no instances of non-compliance with the Commission's rules and regulations. One effluent permit has not been granted, but the ALJ does not feel that that is significant because the Department of Natural Resources is backed-up in the issuance of these permits. The testimony of the engineer further indicates that the project was designed to provide adequate service.

4. The project, as amended, has adequate funding with the use of the sale proceeds from the sale of the District's existing treatment plant to DuPont, use of the cash on hand and the WDA bond issuance in an amount not to exceed \$3,288,000 and interest earnings during construction. The use of these sources of funding are approved.

5. The project is economically feasible as amended. There was much discussion about the feasibility or the non-feasibility of the potential LMH extension, however that issue has been thoroughly discussed in the Discussion Section of this Decision and, since the District has amended its application to exclude that proposed construction, the ALJ does not feel that there is any need to discuss deleted portions from the project at greater length.

6. The rates, as recommended by Staff in Appendix A and agreed to by the District, are sufficient, but not more than sufficient, to meet the debt service and operation and maintenance expenses of the District.

7. The rates recommended by Staff are hereby approved to become effective when the new treatment facility commences operations.

8. The District's moratorium amendment should be granted. The moratorium shall remain in effect for a period of 18 months or until Lubeck Public Service District's anticipated project to construct a new water treatment plant and additional storage capacity is completed, whichever comes first. By this moratorium, the District shall not construct any new extensions of mains, nor shall it serve customers requesting multiple taps. However, the moratorium shall not apply to

single tap connections made on the District's existing lines, nor to three written commitments made by the District previous to the filing of the moratorium, dated July 20, 1988, June 12, 1987 and July 23, 1986.

9. Since Ms. Tucker's complaint was withdrawn by her attorney, so long as the potential LMH customers are not included in the project, the ALJ dismisses said complaint.

10. The Protestants' observations have been considered thoroughly by the ALJ and discussed elsewhere in this Order. Ms. Roberts' allegation that there may be a conflict of interest between the Board members working for DuPont and the sales contract with DuPont to purchase the plant deserves further investigation and the ALJ directs Staff to investigate and determine if there is a conflict of interest with the existing Board members and the sale of the plant to DuPont. Staff should report its findings to the ALJ in writing by February 28, 1990.

ORDER

IT IS, THEREFORE, ORDERED that the Lubeck Public Service District's application filed on May 24, 1989, for a certificate of convenience and necessity to construct a water treatment plant, a 100,000 gallon storage tank, several linear feet of water main, one booster station and other appurtenances within the territorial boundaries of the District, as amended, should be, and hereby is, approved.

IT IS FURTHER ORDERED that construction funding for the project consisting of a Water Development Authority bond in an amount not to exceed \$3,288,000 for a term of 38 years, at an interest rate not to exceed 8%, be, and hereby is, approved, and the use of the proceeds from the sale of the existing water treatment plant and the use of cash on hand of \$70,000, as well as earnings during construction, for the proposed project, as amended, are approved.

IT IS FURTHER ORDERED that the rates and charges as recommended by Staff and agreed to by the District, as contained on Appendix A, attached hereto, be, and hereby are, approved, to become effective when the new treatment facility commences operations.

IT IS FURTHER ORDERED that the complaint of Judy Tucker and others of the Larkmead Road area, upon her attorney's withdrawal of the complaint, be and hereby is, dismissed from the open docket of the Commission.

IT IS FURTHER ORDERED that the conditional moratorium granted on July 6, 1989, in Case No. 88-781-W-PC, be, and it hereby is, amended and approved as follows:

The Lubeck Public Service District shall be granted a moratorium on new extensions of water mains and multiple tap service connections, as hereinafter provided.

The moratorium shall remain in effect for a period of eighteen (18) months or until the Lubeck Public Service District's

anticipated project approved herein is completed, whichever comes first.

This moratorium shall not apply to single tap connections between the beginning and terminus of existing lines, nor shall it apply to three previous commitments for multiple tap services, as reflected in the District's letter of July 20, 1988, June 12, 1987 and July 23, 1986.

IT IS FURTHER ORDERED that the Lubeck Public Service District file a revised tariff with the revised rates and charges discussed herein with the Commission's Tariff Office before said rates and charges are placed in effect.

IT IS FURTHER ORDERED that the Commission Staff investigate and determine if there is a conflict of interest between the Board members' employment at DuPont and their execution of a sales contract with DuPont and report its findings in writing by February 28, 1990.

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.



Ann Rodak
Administrative Law Judge

AR:cjf

LUBECK PUBLIC SERVICE DISTRICT
CASE NO. 89-160-PWD-CN

STAFF RECOMMENDED RATES

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for general domestic, commercial and industrial service.

RATES

First 5,000 gallons used per month \$3.15 per 1,000 gallons
Next 95,000 gallons used per month \$2.35 per 1,000 gallons
All Over 100,000 gallons used per month \$1.01 per 1,000 gallons

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

5/8 inch meter or smaller	\$ 9.45 per month
1 inch meter	\$ 23.63 per month
2 inch meter	\$ 75.60 per month
3 inch meter	\$141.75 per month
4 inch meter	\$236.25 per month
6 inch meter	\$472.50 per month

RATES FOR PRIVATE FIRE PROTECTION SERVICE

Hydrant or Sprinkler

4 inch connection	\$ 4.00 per month
6 inch connection	\$ 6.00 per month
8 inch connection	\$ 8.00 per month

DELAYED PAYMENT PENALTY

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

SERVICE CONNECTION CHARGE

\$250.00

RECONNECTION FEE

\$30.00



1

2

FORM OF CERTIFICATE OF CONSULTING ENGINEER
LUBECK PUBLIC SERVICE DISTRICT

Lubeck Public Sewerage District
\$3,285,000 Water System Revenue Bonds,
Series A and Series B

I, Ronald R. Schultz, Registered Professional Engineer, West Virginia License No. 8634, of Burgess & Niple, Limited, Engineers and Architects, Parkersburg, West Virginia, hereby certify that my firm is engineer for the acquisition and construction of a water treatment plant, storage and distribution facilities, and other appurtenances (herein called the "Project") in the Lubeck Public Service District (the "Issuer") to be constructed primarily in Wood County, West Virginia, which construction and acquisition are being permanently financed in part by the above-captioned bonds (the "Bonds") of the Issuer. Capitalized words not defined herein shall have the meaning set forth in the Resolution passed by the Board of the Issuer on March 28, 1990 and the Loan Agreement and Supplemental Loan Agreement by and between the Issuer and the West Virginia Water Development Authority (the "Authority") dated February 7, 1990.

1. The Bonds are being issued for the purpose of acquiring and constructing a water treatment plant, storage and distribution facilities, and other appurtenances (the "Project").

2. The undersigned hereby certifies that (i) my firm will take all reasonable steps to insure that the Project will be constructed in accordance with the approved plans, specifications and designs prepared by my firm and as described in the application submitted to the Authority requesting the Authority to purchase the Bonds (the "Application") and as approved by all necessary governmental bodies; (ii) the Project is adequate for the purpose for which it was designed and is situate wholly or chiefly within the boundaries of the Issuer; (iii) the Issuer has received bids for the construction of the Project, with the exception of the proposed office building, which are in an amount and otherwise compatible with the plan of financing described in the Application and all contractors will meet required provisions for all insurance and payment and performance bonds and that certificates to the Issuer for such insurance policies or binders and such bonds will be reviewed by my firm for accuracy, (iv) the Issuer has obtained all permits, except a permit from the West Virginia Department of Natural Resources, Division of Water Resources, which cannot be obtained at this time, required by the laws of the State and the federal government necessary for the construction of the Project, (v) the construction and funding for the Project should proceed to a successful conclusion within the time schedules proposed; (vi) the project operation and maintenance expenses and anticipated customer usage of the System, as furnished to Philip R. Postlewait, Certified Public Accountant, are true and correct to the best of our knowledge; (vii) to the best of our knowledge, the rates and charges for the water system prepared by Philip R. Postlewait, Certified Public Accountant, comply with the applicable provisions

of the Loan Agreement and Supplemental Loan Agreement by and between the Authority and the Issuer; (viii) the net proceeds of the Bonds, together with other moneys on deposit or to be deposited and irrevocably committed therefor, will be sufficient to pay the costs of acquisition and construction of the Project as set forth in the application submitted to the Authority as of the date of the Loan Agreement; (ix) and attached hereto as Exhibit A is the final amended "Schedule A - Total Cost of Project and Sources of Funds" for the Project.

WITNESS my signature on this 2nd day of April, 1990.

Burgess & Niple, Limited

By: Ronald P. Schulz
Assistant District Director

West Virginia License No. 8634

SEAL

DATE: March 21, 1990

AMENDED SCHEDULE A
NAME OF GOVERNMENTAL AGENCY: Lubeck Public Service District
TOTAL COST OF PROJECT AND SOURCES OF FUNDS

A. Cost of Project

1. Construction	\$	<u>3,869,936</u>	
2. Technical Services	\$	<u>690,000</u>	
3. Legal and Fiscal	\$	<u>50,000</u>	
4. Administrative	\$	<u>28,000</u>	
5. Site and Other Lands	\$	<u>32,227</u>	
6. Step I and/or Step II Design or Other Loan Repayment (Specify Type: _____)	\$	_____	
7. Interim Financing Costs	\$	_____	
8. Contingency	\$	<u>96,750</u>	
9. Total of Lines 1 through 8			\$ <u>4,766,913</u>

B. Sources of Funds

10. Federal Grants: ¹ (Specify Source) _____	\$	_____	
11. State Grants: ¹ (Specify Source) _____	\$	_____	
_____	\$	_____	
_____	\$	_____	
12. Other Grants: ¹ <u>Sale of Existing Facility</u>	\$	<u>1,850,000</u>	
(Specify Source) <u>Cash on Hand</u>	\$	<u>135,726</u>	
13. Any Other Source: ² <u>Interest Earned</u>	\$	<u>263,794</u>	
(Specify) _____	\$	_____	
14. Total of Lines 10 through 13			\$ <u>2,249,520</u>
15. Proceeds Required from Bond Issue (Line 9 less Line 14)			\$ <u>2,517,393</u>

C. Cost of Financing

16. Capitalized Interest (construction period plus six months)	\$	<u>492,289</u>	
17. Funded Reserve Account ³	\$	<u>263,818</u>	
18. Other Costs ⁴	\$	<u>12,000</u>	
19. Total Cost of Financing			\$ <u>768,107</u>
20. Size of Bond Issue (Line 15 plus Total from Line 19)			\$ <u>3,285,500</u>

LUBECK PUBLIC SERVICE DISTRICT
 CONSTRUCTION CASH FLOW
 DISBURSEMENTS

TIME PERIOD	CONTRACT 88-1 PLANT	CONTRACT 88-2 WELLS	CONTRACT 88-3 TANKS	CONTRACT 88-4 LINES	ENGINEERING SERVICES	ADMIN, LEGAL, ROW, ETC	OFFICE, STORAGE, CONTINGENCY	BOND COMMISSION	TOTAL DISBURSEMENTS
Month 1	0	0	0	0	0	12,000		756,107	756,107
Month 2	91,330	6,678	16,873	20,114	226,027				238,027
Month 3	127,110	13,689	47,128	60,339	105,973	40,742			240,968
Month 4	152,380	15,575	53,819	60,339	13,500	40,742			302,508
Month 5	227,310	19,863	60,801	40,226	13,500	28,743			336,355
Month 6	232,430	0	67,637	0	13,500				390,443
Month 7	234,730	6,215	43,928	20,113	13,500		32,175		313,567
Month 8	234,730		30,401		13,500		64,350		350,661
Month 9	273,310				13,500		80,438		342,981
Month 10	280,900		16,873		13,500		96,525		367,248
Month 11	205,320				13,500		32,175		407,798
Month 12	204,230				13,500				250,995
Month 13	276,170				13,500		16,087		233,817
Month 14	196,365				13,500				289,670
Month 15	155,790				13,500				209,865
Month 16	152,220				4,500				169,290
Month 17					4,500				156,720
Month 18					173,500				4,500
Month 19									173,500
Month 20									0
Month 21									0
Month 22									0
Month 23									0
Month 24									0

 3,044,325 62,020 337,460 201,131 690,000 122,227 321,750 756,107 5,535,020



PHILIP R. POSTLEWAIT, JR.

CERTIFIED PUBLIC ACCOUNTANT

P.O. BOX 1281
PARKERSBURG, WEST VIRGINIA 26102
TELEPHONE (304) 422-7444

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

WEST VIRGINIA SOCIETY CERTIFIED PUBLIC ACCOUNTANTS

April 2, 1990

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, WV 25065

Re: Lubeck Public Service District
\$3,285,500 Water System Revenue Bonds,
Series A and Series B

Gentlemen:

Based upon the rates and charges as set forth and approved in the Order of the Public Service Commission of West Virginia (Case No. 89-160-PWD-CN) entered January 16, 1990, and projected operation and maintenance expenses and anticipated customer usage as furnished to us by Burgess & Niple Limited, Consulting Engineers, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the water system of Lubeck Public Service District, will pay all repair, operation and maintenance expenses and leave a balance each year equal to at least 110% of the maximum amount required in any year for debt service on the Water System Revenue Bonds, Series A and Series B, to be issued to West Virginia Water Development Authority and all other obligations secured or payable from the revenues of the System prior to or on a parity with such Bonds.

The opinion herein expressed is further based upon information furnished us that the Series A Bond Reserve Account and the Series B Bond Reserve Account are to be fully funded from Bond proceeds.

Very truly yours



Philip R. Postlewait, Jr.
Certified Public Accountant

6961P



NONARBITRAGE CERTIFICATE OF
LUBECK PUBLIC SERVICE DISTRICT

The undersigned hereby certifies, on behalf of Lubeck Public Service District (the "District"), with respect to the \$3,139,013 Lubeck Public Service District Water System Revenue Bond, Series A (the "Local Bond"), issued and delivered by the District on the date hereof that the following exist or are reasonably expected to occur:

1. This Certificate is being executed and delivered pursuant to Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations thereunder. The undersigned is a duly authorized member of the public service board of the District and together with the other members of the public service board of the District is charged with the responsibility for issuing the Local Bond. The undersigned is familiar with the facts, circumstances and estimates herein certified and is duly authorized to execute and deliver this certificate on behalf of the District.
2. This certificate may be relied upon as the certificate of the District.
3. The District has not been notified by the Internal Revenue Service of any listing or proposed listing of it as an issuer the certification of which may not be relied upon by the holders of obligations of the District or that there is any disqualification of the District by the Internal Revenue Service because a certification made by the District contains a material misrepresentation.
4. This certificate is based upon facts, circumstances, estimates and expectations of the District in existence on April 2, 1990, the date on which the Local Bond is being physically delivered in exchange for the issue price thereof, and to the best knowledge and belief of the undersigned, the expectations of the District set forth herein are reasonable.
5. In the Local Act pursuant to which the Local Bond is issued, the District has covenanted to make no use of the proceeds of the Local Bond which would cause the Local Bond to be an "arbitrage bond" within the meaning of the Code.
6. Pursuant to the Local Act, the Local Bond is being issued simultaneously with the delivery of this certificate for the purpose of financing in excess of \$3,285,500 of costs, including issuance costs, interest during construction and for six months thereafter and the funding of a reserve fund, attributable to the construction by the District of a water collection system and treatment facility in the District (the "Project"), and paying costs of issuance thereof.

7. Concurrently with the sale and delivery of the Local Bond the District also sold and delivered its Water System Revenue Bond, Series B in the principal amount of \$146,487 (the "Supplemental Bond"). The Supplemental Bond bears no interest.

8. The total cost of the Project is estimated at \$5,535,020. Sources of funding for the Project are as follows:

Sale of Existing Facility	\$1,850,000
Cash on Hand	\$ 135,726
Proceeds of Local Bond	\$3,139,013
Proceeds of Supplemental Bond	\$ 146,487
Interest Earned	\$ <u>263,794</u>
Total	\$5,535,020

The amount of the costs of the Project not expected to be reimbursed or paid from the District's cash on hand, the proceeds of the sale of the existing facility to E. I. du Pont de Nemours & Co. and the Supplemental Bond proceeds is estimated to be at least \$3,139,013. Except for the District's cash on hand, the proceeds of the Local Bond, the proceeds of the Supplemental Bond, and the proceeds of the sale of the existing facility to E. I. du Pont de Nemours & Co., no other funds of the District will be available to meet Costs of the Project, and no balances are available to meet such costs in any account which may, without legislative or judicial action, be invaded to pay such expenditures without a legislative, judicial or contractual requirement that such account be reimbursed.

9. Under the Local Act, the following special funds or accounts have been created:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund;
- (3) Construction Trust Fund;
- (4) Earnings Fund;
- (5) Rebate Fund;
- (6) Series A Sinking Fund, and within the Series A Sinking Fund the Series A Bond Reserve Account and the Bonds Capitalized Interest Account;
- (7) Series B Sinking Fund, and within the Series B Sinking Fund the Series B Bond Reserve Account.

10. Under the Local Act the proceeds of the Local Bond and the Supplemental Bond will be deposited as follows:

- (1) Local Bond proceeds in the amount of \$492,289.00 will be deposited in the Bonds Capitalized Interest Fund in the Series A Sinking Fund to pay interest on the Local Bond for the period of construction on the Project plus six months.
- (2) Local Bond proceeds in the amount of \$260,062.00, representing the Series A Bond Reserve Requirement, will be deposited in the Series A Bond Reserve Account in the Series A Sinking Fund. Such amount represents less than 10% of the proceeds of the Local Bond.
- (3) The balance of the proceeds of the Local Bond will be deposited in the Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Local Bond and the Supplemental Bond and related costs.
- (4) Supplemental Bond proceeds in the amount of \$3,756, representing the Series B Bond Reserve Requirement, will be deposited in the Series B Bond Reserve Account in the Series B Sinking Fund.
- (5) The balance of the proceeds of the Supplemental Bond will be deposited in the Construction Trust Fund and applied solely to payment of Costs of the Project, including costs of issuance of the Local Bond and the Supplemental Bond and related costs.

11. The District expects to enter into contracts within six months of the date hereof for the construction of the Project, and the amount to be expended pursuant to such contracts exceeds the lesser of two and one-half percent (2.5%) of the estimated total Project cost financed with proceeds from the sale of the Local Bond or One Hundred Thousand Dollars (\$100,000.00).

12. Work with respect to construction of the Project will proceed with due diligence to completion. Construction is expected to be completed within three years of December 27, 1989.

13. All the proceeds of the Local Bond which were used for the payment of Costs of the Project will be expended for such purposes within three years of December 27, 1989.

14. The District does not expect to sell or otherwise dispose of the Project, in whole or in part, prior to the last maturity date of the Local Bond and the Supplemental Bond.

15. The amount designated as cost of issuance of the Local Bond consists only of costs which are directly related to and necessary for the issuance of the Local Bond.

16. All property financed with the proceeds of the Local Bond will be held for Federal income tax purposes by (or on behalf of) a qualified governmental unit.

17. The District shall file Form 8038-G in a timely fashion with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255.

18. No more than 10 percent of the proceeds of the Local Bond will be used (directly or indirectly) in any trade or business carried on by, and less than 5 percent of the proceeds of Local Bond have been or will be used to make or finance loans to, any person who is not a governmental unit.

19. The original proceeds of the Local Bond will not exceed the amount necessary for the purposes of the issue.

20. The District shall use the Local Bond proceeds solely for the Project, and the Project will be operated solely for a public purpose as a local governmental activity of the District.

21. The District shall not permit at any time or times any of the proceeds of the Local Bond or any other funds of the District to be used directly or indirectly in a manner which would result in the exclusion of the Local Bond from treatment afforded by Section 103(a) of the Code by reason of classification of the Local Bond as "private activity bonds" within the meaning of the Code. The District will take all actions and refrain from taking such actions as shall be necessary to comply with the Code in order to ensure the interest on the Local Bond is excludable from gross income for federal income tax purposes.

22. The Local Bond, in whole or in part, is not and will not be directly or indirectly, federally guaranteed within the meaning of Section 149(b) of the Code.

23. The District will rebate to the United States the amount, if any, required by Section 148 of the Code and will take all steps necessary to make such rebates. In the event the District fails to make such rebates as required, the District shall pay any and all penalties and obtain a waiver from the Internal Revenue Service in order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Local Bond.

24. The District has retained the right to amend or supplement its authorizing documents if such amendment or supplement is necessary to preserve the exclusion from gross income for federal income tax purposes of the interest on the Local Bond.

25. The District shall comply with the yield restriction on Local Bond proceeds as set forth in the Code.

26. The District has funded the Series A Reserve Account at the maximum amount of principal and interest which will mature and become due on the Local Bond in the then current or any succeeding year with the proceeds of the Local Bond. Moneys in the Series A Bond Reserve Account and the Series A Sinking Fund (established for the annual payment of principal and interest) will be used solely to pay principal of and interest on the Local Bond and will not be available to meet the Costs of the Project.

27. The District will spend the funds in the local sinking fund (other than funds in the reserve account) within a 13 month period beginning on the date of receipt and any monies received from the investment of amounts held in the local sinking fund (other than in the reserve account therein) will be spent within a one year period beginning the date of receipt.

28. The District shall submit to the Issuer within fifteen (15) days following the end of the District's bond year a certified copy of its rebate calculation or if the District qualifies for the small governmental issuer exception to rebate, then the District shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the bond year which would make the Local Bond subject to rebate.

29. To the best of my knowledge, information and belief, the foregoing expectations are reasonable.

IN WITNESS WHEREOF, I have set my hand this 2nd day of April, 1990.

LUBECK PUBLIC SERVICE DISTRICT

BY James E. Smith
Duly Authorized Board Member

6815P



Information Return for Tax-Exempt Governmental Obligations

▶ Under Section 149(e)

▶ See separate instructions

(Use Form 8038-GC if the issue price is under \$100,000)

Part I Reporting Authority

Check box if Amended Return ▶

1 Issuer's name
Lubeck Public Service District

2 Issuer's employer identification number
55-0455342

3 Number and street
Post Office Box 700

4 Report number
G19 90 - 1

5 City or town, state, and ZIP code
Washington, West Virginia 26181

6 Date of issue
April 2, 1990

7 Name of Issue
Lubeck Public Service District Water Revenue Bond Series A

8 CUSIP Number
N/A

Part II Type of Issue (check box(es) that applies and enter the Issue Price)

	Issue price
9 Check box if obligations are tax or other revenue anticipation bonds ▶ <input type="checkbox"/>	
10 Check box if obligations are in the form of a lease or installment sale ▶ <input type="checkbox"/>	
11 <input type="checkbox"/> Education	\$
12 <input type="checkbox"/> Health and hospital	
13 <input type="checkbox"/> Transportation	
14 <input type="checkbox"/> Public safety	
15 <input type="checkbox"/> Environment (including sewage bonds)	
16 <input type="checkbox"/> Housing	
17 <input checked="" type="checkbox"/> Utilities	\$3,139,013
18 <input type="checkbox"/> Other. Describe (see Instructions) ▶	

Part III Description of Obligations

	(a) Maturity date	(b) Interest rate	(c) Issue price	(d) Stated redemption price at maturity	(e) Weighted average maturity	(f) Yield	(g) Net interest cost
19 Final maturity	10/1/2029	7.85 %	\$241,132	\$241,132			
20 Entire issue			\$3,139,013	\$3,139,013	28.55 years	N/C %	7.95 %

Part IV Uses of Original Proceeds of Bond Issues (including underwriters' discount)

21 Proceeds used for accrued interest	21	
22 Issue price of entire issue (enter line 20c)	22	\$3,139,013
23 Proceeds used for bond issuance costs (including underwriters' discount)	23	\$ 10,000
24 Proceeds used for credit enhancement	24	
25 Proceeds allocated to reasonably required reserve or replacement fund	25	260,062
26 Proceeds used to refund prior issues	26	
27 Total (add lines 23, 24, 25, and 26)	27	270,062
28 Nonrefunding proceeds of the issue (subtract line 27 from line 22 and enter amount here)	28	2,868,951

Part V Description of Refunded Bonds (complete this part only for refunding bonds)

29 Enter the remaining weighted average maturity of the bonds to be refunded ▶ _____ years

30 Enter the last date on which the refunded bonds will be called ▶ _____

31 Enter the date(s) the refunded bonds were issued ▶ _____

Part VI Miscellaneous

32 Enter the amount of the state volume cap allocated to the issue ▶ _____

33 Enter the amount of the bonds designated by the issuer under section 265(b)(3)(B)(i)(III) (small issuer exception) ▶ _____

34 Pooled financings:

a Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units ▶ _____

b Check box if this issue is a loan made from the proceeds of another tax-exempt issue ▶ and enter the name of the issuer ▶ **WV Water Development Authority** and the date of the issue ▶ **December 27, 1989**

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.

Please Sign Here

James E. Smith
Signature of officer

April 2, 1990
Date

James E. Smith
Chairman, Public Service Board
Type or print name and title

For Paperwork Reduction Act Notice, see page 1 of the instructions.



DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW

601 AVERY STREET

POST OFFICE BOX 48

PARKERSBURG, WEST VIRGINIA 26102-0048

(304) 485-8500

TELECOPIER (304) 485-7973

FEDERAL I.D. NO. 55-0631173

FRED L. DAVIS 1905-1976
JOHN S. BAILEY, JR.
WILLIAM R. PFALZGRAF
FRED L. DAVIS, JR.
F. RICHARD HALL
WILLIAM A. TRAINER
HOWARD E. SEUFER, JR.

ROBERT J. KENT*
STEVEN R. HARDMAN
J. MICHAEL WEBER
SARA R. SIMON

*ALSO ADMITTED IN OHIO

April 2, 1990

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Gentlemen:

We are bond counsel to Lubeck Public Service District, Wood County, West Virginia (the "District").

We have examined a record of proceedings and other papers relating to (i) the authorization of a loan agreement, executed by the District on February 7, 1990, including all schedules and exhibits attached thereto (the "Loan Agreement"), between the District and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a revenue bond of the District, dated April 2, 1990, (the "Local Bond"), to be purchased by the Authority in accordance with the provisions of the Loan Agreement. The Local Bond is in the principal amount of \$3,139,013, issued in the form of one bond registered as to principal and interest to the Authority, with interest payable April 1 and October 1 of each year, beginning October 1, 1990, at the respective rate and with principal payable in installments on October 1 of each of the years, all as follows:

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
1991	\$ 13,648.00	7.85%
1992	14,720.00	7.85%
1993	15,876.00	7.85%
1994	17,122.00	7.85%
1995	18,466.00	7.85%
1996	19,915.00	7.85%
1997	21,479.00	7.85%
1998	23,165.00	7.85%
1999	24,983.00	7.85%

<u>Year</u>	<u>Installment</u>	<u>Interest Rate</u>
2000	26,945.00	7.85%
2001	29,060.00	7.85%
2002	31,341.00	7.85%
2003	33,801.00	7.85%
2004	36,455.00	7.85%
2005	39,316.00	7.85%
2006	42,403.00	7.85%
2007	45,731.00	7.85%
2008	49,321.00	7.85%
2009	53,193.00	7.85%
2010	57,368.00	7.85%
2011	61,872.00	7.85%
2012	66,729.00	7.85%
2013	71,967.00	7.85%
2014	77,616.00	7.85%
2015	83,709.00	7.85%
2016	90,280.00	7.85%
2017	97,367.00	7.85%
2018	105,011.00	7.85%
2019	113,254.00	7.85%
2020	122,144.00	7.85%
2021	131,733.00	7.85%
2022	142,074.00	7.85%
2023	153,227.00	7.85%
2024	165,255.00	7.85%
2025	178,228.00	7.85%
2026	192,218.00	7.85%
2027	207,308.00	7.85%
2028	223,581.00	7.85%
2029	241,132.00	7.85%

The Local Bond is issued, for the purpose of constructing and installing a water treatment plant, storage and distribution facilities and other appurtenances in the District, paying interest on the Local Bond during the construction period and for six months thereafter, funding a bond reserve account, and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"), the Resolution of the District duly enacted by the District on March 28, 1990, and a resolution supplemental thereto duly enacted March 28, 1990, (collectively

the "Resolution"), pursuant to and under which Act and Resolution the Local Bond is authorized and issued, and the Loan Agreement has been undertaken. The Local Bond is subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Loan Agreement.

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

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

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

3. The District is a duly organized and presently existing public service district and a political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Loan Agreement and to issue and sell the Local Bond, all under the provisions of the Act and other applicable provisions of law.

4. The District has legally and effectively enacted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Local Bond. The Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The Local Bond is a valid and legally enforceable special obligation of the District, payable from the net revenues of the System referred to in the Resolution and secured by a first lien on and pledge of the net revenues of said System, all in accordance with the terms of the Local Bond and the Resolution, and has been duly issued and delivered to the Authority.

6. The Local Bond is, by statute, exempt from all taxation by the State of West Virginia and other taxing bodies of the State and the interest on the Local Bond is exempt from personal and corporate income taxes imposed directly thereon by the State of West Virginia.

7. Under existing law and court decisions, the interest on the Local Bond is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. However, such interest on the Local Bond held by a corporation may be indirectly subject to alternative minimum tax because of the inclusion of such interest in the reported income or earnings and profits of such corporate holder. This opinion is subject to the conditions that the District comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the Local Bond in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. Failure to comply with such requirements could cause the interest on the Local Bond to be so included in gross income retroactive to the date of issuance of the Local Bond. The District has covenanted to comply with all such requirements. We express no opinion regarding other federal tax consequences arising with respect to the Local Bond.

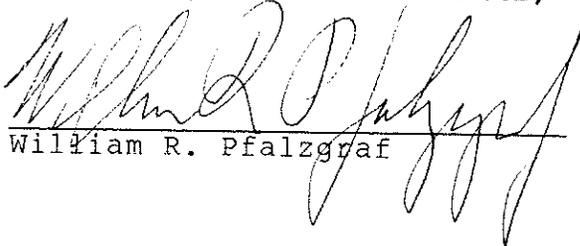
No opinion is given herein as to the effect upon enforceability of the Local Bond of bankruptcy, insolvency, reorganization, moratorium and other laws affecting creditors' rights or in the exercise of judicial discretion in appropriate cases.

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

Very truly yours,

DAVIS, BAILEY, PFALZGRAF & HALL,

By:


William R. Pfalzgraf



DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW
601 AVERY STREET

POST OFFICE BOX 48

PARKERSBURG, WEST VIRGINIA 26102-0048

(304) 485-8500

TELECOPIER (304) 485-7973

FEDERAL I.D. NO. 55-0631173

FRED L. DAVIS 1905-1976
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F. RICHARD HALL
WILLIAM A. TRAINER
HOWARD E. SEUFER, JR.

ROBERT J. KENT*
STEVEN R. HARDMAN
J. MICHAEL WEBER
SARA R. SIMON

*ALSO ADMITTED IN OHIO

April 2, 1990

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Gentlemen:

We are bond counsel to Lubeck Public Service District, Wood County, West Virginia (the "District").

We have examined a record of the proceedings and other papers relating to (i) the authorization of a loan agreement, executed by the District on February 7, 1990, including all schedules and exhibits attached thereto (the "Supplemental Loan Agreement"), between the District and the West Virginia Water Development Authority (the "Authority") and (ii) the issue of a supplemental, subordinate revenue bond of the District dated April 2, 1990 (the "Supplemental Bond"), to be purchased by the Authority in accordance with the provisions of the Supplemental Loan Agreement. The Supplemental Bond is in the principal amount of \$146,487, issued in the form of one bond registered as to principal to the Authority, without interest thereon, with principal payable in installments on October 1 in each of the years, as follows:

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
1991	\$3,755.96	2011	3,756.08
1992	3,756.08	2012	3,756.08
1993	3,756.08	2013	3,756.08
1994	3,756.08	2014	3,756.08
1995	3,756.08	2015	3,756.08
1996	3,756.08	2016	3,756.08
1997	3,756.08	2017	3,756.08
1998	3,756.08	2018	3,756.08
1999	3,756.08	2019	3,756.08
2000	3,756.08	2020	3,756.08
2001	3,756.08	2021	3,756.08

<u>Year</u>	<u>Installment</u>	<u>Year</u>	<u>Installment</u>
2002	3,756.08	2022	3,756.08
2003	3,756.08	2023	3,756.08
2004	3,756.08	2024	3,756.08
2005	3,756.08	2025	3,756.08
2006	3,756.08	2026	3,756.08
2007	3,756.08	2027	3,756.08
2008	3,756.08	2028	3,756.08
2009	3,756.08	2029	3,756.08
2010	3,756.08		

The Supplemental Loan Agreement is supplemental to a loan agreement executed by the District on February 7, 1990, also between the District and the Authority (the "Loan Agreement"). The Supplemental Bond is junior, subordinate and inferior as to lien and source of and security for payment to the bond issued pursuant to the Loan Agreement (the "Local Bond"), which Local Bond is issued simultaneously herewith.

The Supplemental Bond is issued, together with the Local Bond, for the purpose of assisting the District in the financing of the costs of constructing and installing a water treatment plant, storage and distribution facilities and other appurtenances in the District, funding a bond reserve account, and paying certain issuance and other costs in connection therewith.

We have also examined the applicable provisions of Chapter 16, Article 13A of the Code of West Virginia of 1931, as amended (the "Act"), and the Bond Resolution duly enacted by the District on March 28, 1990 and a resolution supplemental thereto duly enacted March 28, 1990, (collectively the "Resolution"), pursuant to and under which Act and Resolution the Supplemental Bond is authorized and issued, and the Supplemental Loan Agreement has been undertaken. The Supplemental Bond is subject to redemption prior to maturity to the extent, at the time, under the conditions and subject to the limitations set forth in the Resolution and the Supplemental Loan Agreement.

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

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

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

3. The District is a duly organized and presently existing public service district and a political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and maintain the System referred to in the Supplemental Loan Agreement and to issue and sell the Supplemental Bond, all under the provisions of the Act and other applicable provisions of law.

4. The District has legally and effectively enacted the Resolution and all other necessary resolutions in connection with the issuance and sale of the Supplemental Bond. The Resolution contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Supplemental Loan Agreement.

5. The Supplemental Bond is a valid, binding and legally enforceable special obligation of the District, payable from the net revenues of the System referred to in the Resolution and secured by a second lien on and pledge of the net revenues of said System, all in accordance with the terms of the Supplemental Bond and the Resolution and has been duly issued and delivered to the Authority. Said lien and pledge are junior, subordinate and inferior to that created for the Local Bond.

6. The Supplemental Bond is, by statute, exempt from all taxation by the State of West Virginia and other taxing bodies of the State.

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

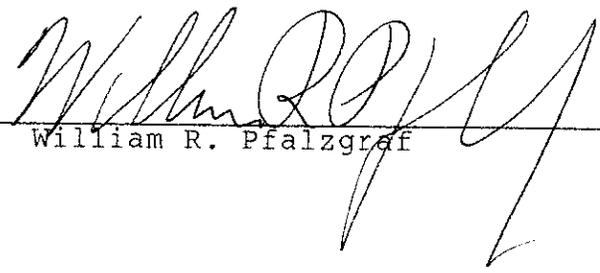
West Virginia Water Development Authority
April 2, 1990
Page 4

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

Very truly yours,

DAVIS, BAILEY, PFALZGRAF & HALL

By



William R. Pfalzgraf

6814P



DAVIS, BAILEY, PFALZGRAF & HALL

ATTORNEYS AT LAW

601 AVERY STREET

POST OFFICE BOX 48

PARKERSBURG, WEST VIRGINIA 26102-0048

(304) 485-8500

TELECOPIER (304) 485-7973

FEDERAL I.D. NO. 55-0631173

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ROBERT J. KENT*
STEVEN R. HARDMAN
J. MICHAEL WEBER
SARA R. SIMON

*ALSO ADMITTED IN OHIO

April 2, 1990

West Virginia Water Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Lubeck Public Service District
P. O. Box 700
Washington, WV 26181

RE: Lubeck Public Service District
Water System Revenue Bond, Series A

Gentlemen:

Please refer to our approving legal opinion of even date herewith, as to the above-captioned Bond issue, which opinion is delivered herewith.

Based upon the certificate of the Public Service Board of the Lubeck Public Service District (the "District"), of even date herewith, stating facts, estimates and circumstances with reference to arbitrage, in our opinion the Bonds are not "arbitrage bonds" under the provisions of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). While we have undertaken no independent investigation or verification of the expectations set forth in said certificate, no matters come to our attention which make unreasonable or incorrect the statements, expectations or representations made in said certificate.

In rendering the foregoing opinion, we wish to advise you that Section 148 of the Code and the regulations issued thereunder in their present form impose certain restrictions regarding the investment of proceeds of the Bonds and require, among other things, that no intentional use of any portion of the proceeds of the Bonds be made in a manner so as to cause

West Virginia Water Development Authority
Lubeck Public Service District
April 2, 1990
Page 2

the Bonds to constitute "arbitrage bonds" and requires that certain amounts be periodically rebated to the United States by the District, subject to the exceptions therein set forth.

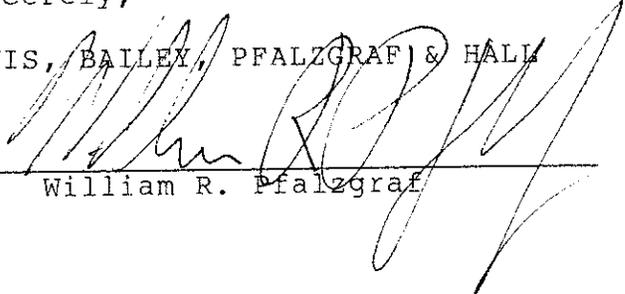
The District has in the Local Act stated that it reasonably expects to expend not less than 95% of the net proceeds of the Bonds within a period of two years beginning on the date on which the Bonds are issued. Assuming compliance therewith, earnings on the Bond proceeds will not be subject to required rebate to the United States within such two-year period. After the said two-year period, however, earnings on the Bond proceeds will be subject to rebate to the United States.

The failure to comply with the provisions of Section 148 of the Code may cause the Bonds to become taxable. In rendering this opinion, we have relied upon the representations and covenants of the District to the effect that, to the extent applicable, the District will comply with said restrictions and requirements, including, without limitation, the rebate requirement. We express no opinion herein as to the taxability of the interest on the Bonds in the event of the failure to comply with the requirements and restrictions of Section 148 of the Code, as set forth hereinabove, and any rules and regulations thereunder, and the statements, expectations and representations made in said certificate.

Sincerely,

DAVIS, BAILEY, PFALZGRAF & HALL

By



William R. Pfalzgraf

6813P

RONNING & BROWN

ATTORNEYS AT LAW

1915 DUDLEY AVENUE

POST OFFICE BOX 1625

PARKERSBURG, WV 26102

LAWRENCE M. RONNING
JOSEPH M. BROWN

AREA CODE 304
422-6481

April 2, 1990

West Virginia Water
Development Authority
1201 Dunbar Avenue
Dunbar, West Virginia 25064

Re: Lubeck Public Service District
Water System Revenue Bonds,
Series A and Series B

Gentlemen:

We are counsel to Lubeck Public Service District, a public service district, in Wood County, West Virginia (the "District"). As such counsel, we have examined copies of the approving opinions of bond counsel, a loan agreement and supplemental loan agreement, both executed by the District on February 7, 1990, as supplemented and amended, by and between the West Virginia Water Development Authority (the "Authority") and the District (collectively, the "Loan Agreement"), the Local Act (as defined therein) and other documents relating to the above-captioned Bonds of the District. Terms used in said opinions, Local Act and Loan Agreement and not otherwise defined herein have the same meanings herein.

We are of the opinion that:

1. The Loan Agreement has been duly authorized, executed and delivered by the District and constitutes a valid and binding obligation of the District enforceable in accordance with its terms, and inures to the benefit of the Authority and cannot be amended so as to affect adversely the rights of the Authority or diminish the obligations of the District without the consent of the Authority.
2. The District is a duly organized and presently existing public service district and a political subdivision of the State of West Virginia, with full power and authority to construct and acquire the Project and to operate and

maintain the System referred to in the Loan Agreement and to issue and sell the Bonds, all under the provisions of the Act and other applicable provisions of law.

3. The members and officers of the public service board of the District have been duly and properly appointed and elected, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the District.

4. The Local Act and all other necessary resolutions have been duly and effectively adopted by the District and are in full force and effect. The Local Act contains provisions and covenants substantially in the form of those set forth in Section 4.1 of the Loan Agreement.

5. The execution and delivery of the Bonds and the Loan Agreement and the consummation of the transaction contemplated by the Loan Agreement, and the carrying out of the terms of either thereof, do not and will not in any material respect conflict with or constitute on the part of the District a breach of or default under any agreement or other instrument to which the District is a party or any existing law, regulation, court order or consent decree to which the District is subject.

6. The District has received any and all permits, licenses, approvals and authorizations required by law or otherwise necessary for the issuance of the Bonds, construction of the Project, operation of the System and imposition of rates and charges, including without limitation, the receipt of all requisite orders and approvals from the Public Service Commission of West Virginia, and has taken any other action required for the imposition of such rates and charges, including, without limitation, the approval and adoption in the Local Act of the rates and charges established by the Public Service Commission of West Virginia, excepting only a permit from the West Virginia Department of Natural Resources, which cannot be obtained at this time. The time for appeal of such order of the Public Service Commission of West Virginia has expired prior to the date hereof without an appeal having been filed.

West Virginia Water Development Authority
April 2, 1990
Page 2

7. To the best of our knowledge, after due inquiry, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Loan Agreement, construction of the Project, operation of the System or the validity of the Bonds or the collection or pledge of the Net Revenues therefor.

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

Very truly yours,

RONNING & BROWN

By:


Lawrence M. Ronning

LMR/jg



WV MUNICIPAL BOND COMMISSION
 Suite 337 Building 3
 1800 Washington St. E
 State Capitol Complex
 Charleston, WV 25305
 (304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: April 2, 1990

(See Reverse for Instructions)

ISSUER & ISSUE: LUBECK PUBLIC SERVICE DISTRICT WATER SYSTEM REVENUE
BONDS, SERIES A

ADDRESS: P. O. Box 700, Washington, WV 26181

COUNTY: Wood

PURPOSE: New Money X

OF ISSUE: Refunding Refunds issue(s) dated: _____

ISSUE DATE: April 2, 1990

CLOSING DATE: April 2, 1990

ISSUE AMOUNT: \$3,139,013

RATE: 7.85%

1st DEBT SERVICE DUE: 10/1/90

1st PRINCIPAL DUE: 10/1/91

1st DEBT SERVICE AMOUNT: \$125,259.70*

PAYING AGENT: West Virginia Municipal Bond Commission

ISSUERS: Davis, Bailey, Pfalzgraf
 BOND COUNSEL: & Hall

UNDERWRITERS

BOND COUNSEL: Jackson & Kelly

Contact Person: William R. Pfalzgraf

Contact Person: Samme Gee

Phone: (304) 485-8500

Phone: (304) 340-0318

CLOSING BANK: One Valley Bank,
National Association

ESCROW TRUSTEE:

Contact Person: John Ziebolt

Contact Person: _____

Phone: (304) 348-7008

Phone: _____

KNOWLEDGEABLE ISSUER CONTACT

OTHER:

Contact Person: William R. Packard

Contact Person: _____

Position: Manager

Function: _____

Phone: (304) 863-3341

Phone: _____

DEPOSITS TO MBC AT CLOSE: Accrued Interest: _____ Days \$ _____
 By Wire Capitalized Interest: \$ 492,289
X Check Reserve Account: \$ 260,062
IGT Other: _____ \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
 By Wire To Escrow Trustee: \$ _____
Check To Issuer: \$ _____
IGT To CIF-State Treasury \$ _____
 To Other: _____ \$ _____

NOTES: *Calculated at 7.85% on \$3,139,013 for 5.966666666 months.

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS

REQUIRED: _____

TRANSFERS

REQUIRED: _____

WV MUNICIPAL BOND COMMISSION
Suite 337 Building 3
1800 Washington St. E
State Capitol Complex
Charleston, WV 25305
(304) 348-3971

NEW ISSUE REPORT FORM

Date of Report: April 2, 1990

(See Reverse for Instructions)

ISSUER & ISSUE: LUBECK PUBLIC SERVICE DISTRICT WATER SYSTEM REVENUE BONDS, SERIES B

ADDRESS: P. O. Box 700, Washington, WV 26181

PURPOSE: New Money Refunding COUNTY: Wood

OF ISSUE: Refunding Refunds issue(s) dated: _____

ISSUE DATE: April 2, 1990

CLOSING DATE: April 2, 1990

ISSUE AMOUNT: \$146,487

RATE: 0%

1st DEBT SERVICE DUE: 10/1/91

1st PRINCIPAL DUE: 10/1/91

1st DEBT SERVICE AMOUNT: \$3,755.96

PAYING AGENT: West Virginia Municipal Bond Commission

ISSUERS: Davis, Bailey, Pfalzgraf & Hall

BOND COUNSEL: Davis, Bailey, Pfalzgraf & Hall

Contact Person: William R. Pfalzgraf

Phone: (304) 485-8500

CLOSING BANK: One Valley Bank National Association

Contact Person: John Ziebolt

Phone: (304) 348-7008

KNOWLEDGEABLE ISSUER CONTACT

Contact Person: William R. Packard

Position: Manager

Phone: (304) 863-3341

UNDERWRITERS

BOND COUNSEL: Jackson & Kelly

Contact Person: Samme Gee

Phone: (304) 340-0318

ESCROW TRUSTEE:

Contact Person: _____

Phone: _____

OTHER:

Contact Person: _____

Function: _____

Phone: _____

DEPOSITS TO MBC AT CLOSE: Accrued Interest: _____ Days \$ _____
By Wire Capitalized Interest: _____ \$ _____
X Check Reserve Account: _____ \$ 3,756
IGT Other: _____ \$ _____

REFUNDS & TRANSFERS BY MBC AT CLOSE:
By Wire To Escrow Trustee: _____ \$ _____
Check To Issuer: _____ \$ _____
IGT To CIF-State Treasury _____ \$ _____
To Other: _____ \$ _____

NOTES: _____

FOR MUNICIPAL BOND COMMISSION USE ONLY:

DOCUMENTS

REQUIRED: _____

TRANSFERS

REQUIRED: _____



ASSIGNMENT SEPARATE FROM BOND

FOR VALUE RECEIVED, the West Virginia Water Development Authority hereby sells, assigns and transfers unto One Valley Bank, National Association, Charleston, West Virginia, the Water System Revenue Bond, Series A, of the Lubeck Public Service District, in the principal amount of \$3,139,013.00, numbered R-1, standing in the name of West Virginia Water Development Authority on the books of said District.

Dated: April 2, 1990.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

BY Barbara B. Meadows
Authorized Representative

6812P



LUBECK PUBLIC SERVICE DISTRICT

Water System Revenue Bonds
Series A and Series B

CERTIFICATE OF REGISTRATION OF BONDS

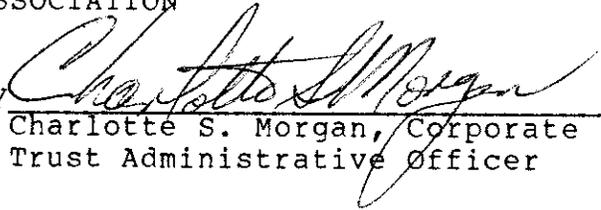
April 2, 1990

I, Charlotte S. Morgan, Corporate Trust Administrative Officer of One Valley Bank, National Association, a national banking association, as Registrar under the Resolution and Registrar's Agreement providing for the \$3,285,500 aggregate principal amount of Water System Revenue Bonds, Series A and Series B, of the Lubeck Public Service District (the "District"), hereby certify that on the 2nd day of April, 1990, the single fully registered Series A Bond of the District numbered R-1 in the principal amount of \$3,139,013.00, designated "Water System Revenue Bond, Series A," and the single fully registered Series B Bond of the District numbered R-1 in the principal amount of \$146,487.00, designated "Water System Revenue Bond, Series B," were registered as to principal and interest (the Series B Bond being registered as to principal only) in the name of "West Virginia Water Development Authority" in the books of the District kept for that purpose at our office, by a duly authorized officer on behalf of One Valley Bank, National Association as Registrar.

WITNESS my signature as of this 2nd day of April, 1990:

ONE VALLEY BANK, NATIONAL
ASSOCIATION

By


Charlotte S. Morgan, Corporate
Trust Administrative Officer

6811P



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.....

CROSS-RECEIPT FOR SERIES A BOND AND SERIES B BOND
AND SERIES A BOND PROCEEDS AND SERIES B BOND PROCEEDS

Re: Lubeck Public Service District
Water System Revenue Bonds,
Series A and Series B

The undersigned, DANIEL B. YONKOSKY, Director of the West Virginia Water Development Authority, for and on behalf of West Virginia Water Development Authority (the "Authority") and JAMES E. SMITH, Chairman of the Public Service Board of the Lubeck Public Service District (the "District"), hereby certify as follows:

1. On the 2nd day of April, 1990, the Authority received the entire original issue of \$3,139,013 in principal amount of Water System Revenue Bond, Series A (the "Series A Bond"), issued as one fully registered Bond number R-1.

2. On the 2nd day of April, 1990, the Authority received the entire original issue of \$146,487 in principal amount of Water System Revenue Bond, Series B (the "Series B Bond") (the Series A Bond and the Series B Bond being hereinafter referred to collectively as the "Bonds"), issued as one fully registered Bond number R-1.

3. At the time of such receipt of the Bonds upon original issuance, the Bonds had been executed by James E. Smith, as Chairman of the Public Service Board of the District, by his manual signature, and by Charles H. Huffman, Jr., as Secretary of the Public Service Board of the District, by his manual signature and the official seal of the District had been impressed upon the Bonds.

4. The District has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series A Bond, of the proceeds of the Series A Bond in the principal amount of \$3,139,013.

5. The District has received and hereby acknowledges receipt from the Authority, as the original purchaser of the Series B Bond, of proceeds of the Series B Bond in the principal amount of \$146,487.

IN WITNESS WHEREOF, Daniel B. Yonkosky duly signed and delivered this receipt on behalf of WEST VIRGINIA WATER DEVELOPMENT AUTHORITY and the LUBECK PUBLIC SERVICE DISTRICT has caused this receipt to be duly executed and delivered by the Chairman of its Public Service Board, as of this 2nd day of April, 1990.

LUBECK PUBLIC SERVICE
DISTRICT

By: James E. Smith
James E. Smith, Chairman

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Daniel B. Yonkosky
Daniel B. Yonkosky, Director

6810P

LUBECK PUBLIC SERVICE DISTRICT
\$3,285,500 WATER SYSTEM REVENUE BONDS
SERIES A AND SERIES B

REQUEST AND AUTHORIZATION TO
ONE VALLEY BANK, NATIONAL ASSOCIATION
TO AUTHENTICATE AND DELIVER THE BONDS

The Lubeck Public Service District (the "District") hereby requests and authorizes One Valley Bank, National Association (the "Registrar"), Charleston, West Virginia, pursuant to its powers and duties as Registrar, to authenticate, register and deliver the Lubeck Public Service District Water System Revenue Bond, Series A, in the principal amount of \$3,139,013 to the West Virginia Water Development Authority.

The District hereby further requests and authorizes the Registrar, to authenticate, register and deliver the Lubeck Public Service District Water System Revenue Bond, Series B, in the principal amount of \$146,487 to the West Virginia Water Development Authority.

Dated this 2nd day of April, 1990.

LUBECK PUBLIC SERVICE DISTRICT

BY James E. Smith
James E. Smith, Chairman

[SEAL]

ATTEST:

Charles A. Huffman, Jr.
Secretary

6809P