

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

Docket No. R-33198 - In Re: Possible modifications to the rules and regulations for water and wastewater utilities to adopt streamlined rules for non-profit systems.

(Decided at the Business and Executive Session dated September 10, 2014)

I. Overview

The above captioned docket was opened, and published in the Commission's April 11, 2014 Official Bulletin, to consider modifications to the Commission's Water and Wastewater Rules and Regulations¹ applicable to FHA/Non-Profit systems. Specifically, Staff published for comment modifications to Section 1201 of the Water and Wastewater Rules and Regulations. No interventions or protests were filed in response to the initial publication, or the proposed set of rules and regulations attached thereto. However, subsequent to the publication period, Staff did engage in informal discussions with the Louisiana Rural Water Association ("LRWA") regarding the proposed rules. Consistent with those discussions, Staff proposes the following modifications to the water and wastewater rules and regulations.

II. Jurisdiction

Art. IV, Section 21 of the Louisiana Constitution of 1974 provides the LPSC with the following authority:

B. **Powers and Duties.** The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by Law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by Law.

Pursuant to the above authority, the Commission adopted rules and regulations that apply specifically to water and wastewater utilities. Given the non-profit nature of what were then referred to as FHA systems, and existing rate structures, fees and tariffs in place for those systems that in some instances differed from existing and proposed Commission regulations, the Commission adopted Section 1201 to craft FHA system-specific rules.

III. Staff's Recommendation

In 2011, the Commission re-asserted rate jurisdiction over USDA funded systems. Since

¹ Adopted by the General Order dated March 9, 2012, corrected rules issued October 1, 2013.

that time, the Commission has docketed, analyzed and voted on a large number of rate filings submitted by non-profit systems. As mentioned herein, the Commission acknowledged the unique manner in which these systems operated, and established rules specifically applicable to them. However, the Commission Staff further determined, through extensive review, that the rules should be further modified to further streamline the rate review process, for the reasons that follow.

First, since these systems are by their nature not-for-profit, and operate on a narrow margin, many are not equipped to address emergency situations without immediate rate relief. Secondly, in many instances the financial assistance available through low interest loans is conditioned upon adequate revenues being generated to satisfy payment obligations; thus capital to perform necessary maintenance, repairs, etc. is conditioned upon timely rate relief. Finally, the LRWA, in many instances, performs a rate analysis on behalf of systems submitting LPSC rate filings; Staff has learned that often this review overlaps Staff review and addresses issues Staff typically reviews in its own rate review.

Consistent with the above, Staff proposed the following modifications to the Water and Wastewater Rules and Regulations. These proposed changes were intended to address concerns stated herein and provide for, to the extent followed, an expedited rate review. Changes were provided in ~~strike through when modifying existing regulations~~ and **highlighted/shaded text when additional language is added.**

Section 101

8. ~~FHA/Non-Profit System-~~ A non-profit water or wastewater system, **cooperative or corporation wholly owned by the water members and** operated by an elected board **by** of the system's members, that primarily receives its funding from the USDA or other government agency. **FHA-Non-Profit** Systems includes those systems that, while in the past have received funding from the USDA, are no longer currently a borrower.

Section 1201

C. Streamlined Requests for Increases in Rates:

1. A Non-Profit system may request an increase in rates, using a streamlined review process, by submitting an application containing the following:

a. The information required by Section 1101. B. of these regulations, when applicable;

b. A rate study conducted by the Louisiana Rural Water Association justifying the increase in rates, and

c. Documentation providing evidence of board approval of the change in rates, as outlined in the following process:

(i) The board of directors shall conduct a meeting of the board to discuss evidence of a need for a rate change and shall provide all directors with an opportunity to participate. If by a majority vote of the board of directors,

the board agrees that a change in rates is needed, a copy of that vote shall be provided to the Commission.

(ii) Written notice by mail shall be given to all water user members sixty days prior to the board meeting. The notice may be included in a billing notice.

2. Commission Staff will review a proposal submitted pursuant to this section and, following review, submit it to the Commission for approval. To the extent practicable, such review will be completed within 90 days of submission.

D. A non-profit system may, in addition to a request for an increase in rates, seek the approval of a surcharge to be placed in escrow to fund extraordinary expenses and emergency repairs. The Commission may, in its discretion, order the implementation of such an account should it deem necessary.

Staff's proposed recommendation, as outlined above, was published for comments. In addition, copies were circulated to both the LRWA and representatives of the USDA. No comments or modifications to the proposed recommendation were submitted. Consistent with the above, Staff recommended that the proposed changes to the rules and regulations governing water and/or wastewater utilities, as outlined herein, be formally adopted by the Commission.

IV. Commission Consideration

Staff's Final Recommendation was considered by the Commission at its September 10, 2014 Business and Executive Session. On motion of Commissioner Holloway, seconded by Commission Skrmetta, with Commissioners Boissiere and Angelle concurring and Commissioner Campbell temporarily absent, the Commission voted to accept Staff's Final Recommendation.

IT IS THEREFORE ORDERED THAT

1. Staff's Final Recommendation is hereby adopted.
2. The modifications to the Commission's Water and Wastewater Rules and Regulations, as modified by this order and attached hereto as "attachment a" are hereby adopted.

"This space is intentionally left blank."

3. This Order shall be effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

September 12, 2014

/S/ ERIC F. SKRMETTA

DISTRICT I

CHAIRMAN ERIC F. SKRMETTA

/S/ CLYDE C. HOLLOWAY

DISTRICT IV

VICE CHAIRMAN CLYDE C. HOLLOWAY

/S/ FOSTER L. CAMPBELL

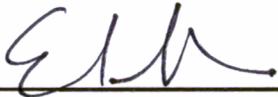
DISTRICT V

COMMISSIONER FOSTER L. CAMPBELL

/S/ LAMBERT C. BOISSIERE

DISTRICT III

COMMISSIONER LAMBERT C. BOISSIERE, III



EVE KHAO GONZALEZ
SECRETARY

S/ SCOTT A. ANGELLE

DISTRICT II

COMMISSIONER SCOTT A. ANGELLE

“ATTACHMENT A”

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE

DOCKET NUMBER R-33198

In re: Rules and regulations governing water and/or wastewater utilities subject to the jurisdiction of the Louisiana Public Service Commission.

RULES AND REGULATIONS

Purpose

The Louisiana Public Service Commission (“Commission” or “LPSC”) adopts these rules in an effort to establish formal regulations applicable to water and/or wastewater utilities subject to the jurisdiction of the Commission. Prior to formal adoption of these rules and regulations, LPSC Staff (“Staff”) has managed the registration of water and/or wastewater utilities by offering guidance from a pamphlet entitled “Guidelines & Requirements for Water and Sewerage Companies.” This pamphlet, developed by Staff, summarizes many of the Commission’s Orders and rules applicable to regulated utilities; instructs the utilities regarding proper registration with other State agencies such as the Department of Environmental Quality (“DEQ”) and the Department of Health and Hospitals (“DHH”); provides definitions of commonly used water and wastewater industry terms; includes an application form for providing basic utility information such as the incorporated name, regulatory contact personnel, and financial and legal contacts; and provides a proposed rate schedule and service regulations format. While this pamphlet has provided important guidance to water and wastewater utilities, it has never been formally adopted by the Commission. In addition, the Commission has received a number of informal comments from “FHA systems,” as defined herein, regarding specific rules to apply to those systems.

Consequently, the Commission finds it necessary to establish a formalized registration process so that the application and approval process is clear, unambiguous and non-discriminatory for all water and/or wastewater providers. Furthermore, it is beneficial to establish formal definitions of water and wastewater terms and to consolidate Commission rules that are applicable to water and wastewater services and providers.

Authority

Art. IV, Section 21 of the Louisiana Constitution of 1974 provides the LPSC with the following authority:

B. **Powers and Duties.** The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by Law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by Law.

Consistent with the above authority, the Commission has adopted rules and regulations that apply to utilities in general, and in some instances water and wastewater utilities specifically. These rules and regulations are contained in individual Commission Orders memorializing the rules and regulations. The blanket authority to regulate public utilities granted above, however, is not absolute, as it is subject to the following limitations regarding utilities owned, operated or regulated by a political subdivision:

C. **Limitation.** The Commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered. This paragraph shall not apply to safety regulations pertaining to the operation of such utilities.

In addition to providing the Commission with authority to regulate public utilities, Art. IV § 21 sets forth, in general terms, requirements a public utility must comply with regarding rate applications. The Constitution also outlines the time frame in which such applications are to be processed, providing as follows:

D. **Applications, Petitions, and Schedules; Protective Bond and Security.**
(1) Within twenty days after a public utility files a proposed rate schedule which would result in a change in rates, it shall give notice thereof by publication in the official state journal and in the official journal of each parish within the geographical area in which the schedule would become applicable. (2) Within twelve months after the effective filing date, the Commission shall render a full decision on each application, petition, and proposed rate schedule. (3) After the effective filing date of any proposed schedule by a public utility which would result in a rate increase, the Commission may permit the proposed schedule to be put into effect, in whole, or in part, pending its decision on the application for rate increase and subject to protective bond or security approved by the Commission. If no decision is rendered on the application within twelve months after such filing date, the proposed increase may be put into effect, but only if and as provided by law and subject to protective bond or security requirements, until final action by a court of last resort. (4) If a proposed increase that has been put into effect is finally disallowed, in whole or in part, the utility shall make full refund, with legal interest thereon, within the time and in the manner prescribed by law.

It is consistent with the above-cited constitutional authority that the Commission adopts these rules and regulations that are intended to apply to all Commission-jurisdictional water and wastewater public utilities.

Section 101. Definitions of Water and Wastewater Terms

1. **Commercial Service** - Provision of water and/or wastewater service for use in connection with business premises devoted primarily to operations, including offices, stores, markets, apartments with master-meters, hotels, motels, automobile trailer parks, courts, service stations, non-profit businesses and the like.
2. **Connection Fee** - A charge to cover the administrative cost associated with re-establishing service or with reading the meter upon a change of customer where service has previously been established.
3. **Customer-** Any industrial, commercial or residential user of a water and/or wastewater utility, including a developer of a project requiring water service.
4. **Customer's House Piping** - All pipe and attached fittings on the customer's side of the meter. In all cases, the installation and maintenance of the customer's house piping shall be the consumer's.
5. **Delinquent Penalty** (also, "**Late Penalty**") – An up to 5% penalty on payments received 20 days after the date of the billing. (Established by *LPSC General Order dated 7/12/76*)
6. **Deposit** – An amount collected by a water and/or wastewater utility to safeguard against non-payment of services. The Commission has determined that a "Reasonable" deposit shall be no more than 2 ½ times the average monthly bill.
7. **DEQ Permit Fees** - All jurisdictional wastewater companies are authorized to flow through the annual permit fees assessed by DEQ as a line item on the monthly bills. No penalties or ordinary administrative expenses shall be recovered as a flow through to the subscribers. (See Commission's *Order No. U-16239 dated 10/17/84*)
8. **Non-Profit System-** A non-profit water or wastewater cooperative or corporation wholly owned by the water members and operated by an elected board of the system's members, that primarily receives its funding from the USDA or other government agency. Non-Profit Systems includes those systems that, while in the past have received funding from the USDA, are no longer currently a borrower.
9. **Flat Rate Service** - A fixed charge for water service irrespective of the volume used.
10. **Industrial Service** - Provision of water and/or wastewater service to industrial premises engaged in manufacturing or processing activities.

11. **Main** - A water line of eight (8) or more inches in diameter which is used primarily for transmission or interconnection functions which maintains an average operating pressure of 45 psi during normal daily usage periods. (See *LPSC General Order dated 6/1/95*)
12. **Meter** - All attachments and fittings needed to measure and control the flow of water.
13. **Metered Service** – Water service for which the charges are computed on the basis of measured quantities of water.
14. **Minimum metered water rate**: A metered water rate based on usage not to exceed 2000 gallons, or functional equivalent, per month. (*Pursuant to Commission vote April 20, 2011*)
15. **NSF Check Fee** – “Non-sufficient funds” fee charged by a utility for a returned customer check. The Commission has capped this fee at a maximum of \$20.00. (Established by *LPSC General Order dated 1/21/00*)
16. **Point of Connection** - The meter location or the point where the facilities of the water company meet the facilities owned by the customer.
18. **Premise** - A property which cannot be completely divided in its present utilitarian condition through sale, such as: a) a building under one roof, owned, leased, or occupied by one business or residence; b) a combination of residential buildings or of commercial buildings owned, leased, or occupied one party in one common enclosure; c) a building owned, leased or occupied by one party, having more than one internal division, such as apartments, offices, stores, etc., and which may have a common or separate entrance.
19. **Re-Connection Fee** - A non-recurring charge for re-establishing service after disconnection for nonpayment, failure to make deposit, fraudulent or seasonal use.
20. **Residential Service** - Provision of water for household purposes, including water used on the premises for sprinkling lawns, gardens and shrubbery; washing vehicles; and other similar and customer purposes pertaining to single or multiple family dwellings with individual or master meters.
21. **Service Charge (also, “Service Fee”)** - A non-recurring fee charged to the customer for a service call made to the customer’s premises, wherein it is determined that the issue or repair is located on the customer’s side of the system; thus the company is not responsible for the problem.

22. **Service Line** - The pipe and attached fittings that convey water from the company's mains to the customer's premises.
23. **Sub-metering**- The prohibited "metering" of water service for resale by a water utility to a non-utility. Also, the prohibited "metering" of water service by a non-utility such as a landlord to tenants.
24. **System Development Fee (also, "Capacity Reservation" or "Impact" fee)** – A means of funding facility expansion to a non-residential customer until the utility is able to collect rates for new service. This charge is a one-time charge to new customers so that the utility may recover the capital investment required to provide service to the new customers or to existing customers requesting new or additional services. (Established by *LPSC General Order dated 11/22/06*, modified and superseded by *LPSC General Order dated 8/9/07*)
25. **Tap-in-Fee (also, "Tie-In Fee")** - A non-recurring charge to connect service to a new location where service has not previously been established. This charge, when applied to water companies, usually includes labor and materials for the installation of the service line up to and including the meter and any other cost associated with initial installation. When applied to sewerage companies, this charge will usually include all company inspections, labor and materials, and any other cost associated with the initial installation. When a tap in requires a road bore, the actual cost associated with making the bore may be charged to the customer in addition to the usual tap in charges but the verbiage must be included in the company's tariff.
26. **Tariff (also, "Rate Schedule")** - The entire body of effective rates, charges, rules, regulations and sample forms that have been approved by the Louisiana Public Service Commission.
27. **Uniform System of Accounts**- An accounting system for use with water and wastewater utilities established by the National Association of Regulatory Utility Commissioners (NARUC)
28. **Water Service**- Water service provided by a public utility, for a fee, to ten or more customers. Water service includes that service provided by FHA systems
29. **Wastewater/Sewerage Service**- Wastewater or sewerage collection service provided by a public utility, for a fee, to ten or more customers.

Historical notes

Section 101(8) modified by the General Order dated September 12, 2014, Docket R-33198.

Section 201. Operating as a Regulated Utility Without Authority; Prohibition

No provider of water and/or wastewater service, as defined herein, and subject to regulation by the LPSC, shall provide such service to customers for a fee prior to receiving authorization from the LPSC. Additionally, no entity acquiring a LPSC jurisdictional water and/or wastewater utility shall collect fees from customers of said system prior to LPSC approval of the acquisition.

Section 301. Uniform System of Accounts and Accounting Period

A. Water utilities shall use the uniform system of accounts for water utilities of the National Association of Regulatory Utility Commissioners (NARUC). Sewer utilities shall adopt their accounts as nearly as practicable to conform to the aforesaid system of accounts for water utilities.

B. NARUC publishes separate uniform systems of accounts for four classes of water utilities. These classes are: Class A - Those having annual water operating revenues of \$500,000 or more; Class B - \$250,000 - \$500,000; Class C - \$50,000 - \$250,000; and Class D - less than \$50,000.

C. NARUC publishes separate systems of accounts for three classes of wastewater utilities. These classes are: Class A - those having annual operating revenues of \$1 million or more; Class B - \$200,000 - \$1 million; Class C - less than \$200,000.

D. Each utility shall keep its books on a monthly basis so that for each month all transactions applicable thereto, as nearly as may be ascertained, shall be entered in the books of the utility. Amounts applicable or assignable to specific utility departments shall be so segregated monthly. Each utility shall be so segregated monthly. Each utility shall close its books at the end of each calendar or fiscal year unless otherwise authorized by the Commission.

E. Water and wastewater utilities not currently operating under the NARUC Chart of Accounts shall have until 2013 calendar or fiscal year to obtain compliance with this section.

Section 401. Records, Record Keeping and Filing Requirements

A. All records that a utility is required to keep, by reason of these or other rules prescribed by the Commission, shall be kept at the utility's primary office location or other location as authorized by the Commission. Such records shall be open for inspection by authorized representatives of the Commission at any and all reasonable hours.

Upon request of a regulated entity or other person, any records received by the Commission which are shown by the Company or other person and found by the Commission to be trade secret, proprietary, or confidential information, and not necessary to be disclosed to the public, shall be kept confidential and shall be exempt from public disclosure, subject to the Commission's Rules of Practice and Procedure.

B. Each utility shall file with the Commission's Economics Division an Annual Report on forms prescribed and furnished by the Commission. The Annual Reports shall include a statement of the organization, general balance sheet, income account, revenue and expenses and such other matters connected with the utility's organization and operation as the Commission shall require. The Annual Report shall accurately reflect the balances and operating data of the books of accounts as of the end of the accounting period, and shall be verified by the principal officers or owners of the utility making the report. The report shall be filed with the Commission on or before March 31 for the preceding year ending December 31, or within ninety (90) days from the end of a Commission authorized fiscal year. Where more than one utility department is maintained in the same books of accounts, these shall be reported separately for the different types of utilities, i.e., water, gas, sewer, etc. Any utility failing to file the annual report within the prescribed time, or Commission authorized extension, shall be subject to a \$5,000.00 fine for the first offense, and up to \$50,000 for each subsequent offense. (See *LPSC General Order dated 12/28/00*)

Section 501. Issuance of Sale or Securities; Transfers of Ownership/Control

A. No water or wastewater utility shall issue any security or assume any obligation or liability as guarantor, endorser, surety or otherwise in respect of any security of any other public utility, or of any other person, until it has been authorized to do so by Order of this Commission. Requests for any of the former applications must be petitioned to the Secretary of the Commission in writing. The request will be published in the Commission's Official Bulletin for the required time period. (See *LPSC General Order dated 6/5/96*)

B. No utility or carrier subject to the jurisdiction of the Louisiana Public Service Commission shall sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber the whole or any part of its franchise, works, property, or system, nor by any means direct or indirect, merge or consolidate its utility works, operations, systems, franchises, or any part

thereof, nor transfer control of ownership of any of the assets, common stock or other indicia of control of the utility to any other person, corporation, partnership, limited liability company, utility, carrier, subsidiary, affiliated entity or any other entity nor merge or combine with another person, corporation, partnership, limited liability company, utility, carrier, subsidiary, affiliated company or any other entity or divide into two or more utilities or carriers, where the values involved in such action exceed one percent (1%) of the gross assets of such regulated utility or carrier, or subsidiary thereof, nor in any way commit itself to take such action or affect any right, interest, asset, obligation, stock ownership, or control, involved in such action without prior full disclosure of the prior intendment and plan of such utility or carrier with regard to such action and without prior official action of approval or official action of non-opposition by the Louisiana Public Service Commission. This section is intended to apply to any transfer of the ownership and/or control of public utilities and carriers regardless of the means used to accomplish that transfer. Any transfer accomplished without Commission approval is void. (See *LPSC General Order dated 03/18/94*)

Section 601. Billing

A. General Billing Regulations:

1. A printed bill must be supplied to each customer at least once a month, unless the customer agrees to an alternative billing format (i.e. electronic billing) or billing period.
2. All billing for services must be presented for payment to the customer within sixty (60) days of the date the customer incurs the charge, except as provided in Section 501(F) concerning billing errors.
3. The customer's bill shall show the name of the water and/or wastewater utility rendering service.
4. An address and a telephone number for billing inquiries shall appear on each bill sent to the customer.
5. Interim dispute resolution procedures including interruption and disconnection of services procedures, details as to how a customer can dispute a charge, lodge a complaint, and/or appeal to the Commission must be filed with the Commission

and supplied to the customer upon request. The Commission will remain accessible to hear and resolve customer complaints.

6. No water or wastewater utility may release nonpublic customer information regarding a customer's account or billing history unless required to do so by subpoena or court order.

B. Deposits: Deposits collected by water and/or wastewater utilities shall not exceed 2 ½ times the average monthly bill. Utilities requiring customer deposits shall make interest payments on such deposits at the rate of 5% per annum. These payments shall be made annually by means of either cash or a credit toward the current billing, with a designation on the utility bill that the credit is by reason of earned interest on deposit. Customer deposits of less than six months are exempt from this interest requirement. (See *LPSC General Order dated 9/17/91*)

C. Delinquent Penalty: All customer payments received 20 days after the date of billing may be assessed a 5% penalty. No utility shall charge a late payment penalty on any portion of a bill which portion represents a previous late payment penalty; for purposes of this section, a payment received by a utility shall be credited first to the outstanding principal, regardless of month incurred, until all principal is discharged, and then to outstanding penalty, if any. If the last day of any period calculated hereunder is a Saturday, Sunday, or Legal Holiday or half-Holiday, then the period in question shall extend to the next full business day. (See *LPSC General Orders dated 11/16/72, 2/20/73 and 7/12/76*)

D. Disconnection for Non-Payment: No utility shall disconnect a customer for non-payment of any principal amount without 5 days written notice, nor for non-payment of a late penalty assessment without 90 days written notice. The utility shall not mail or otherwise deliver a five day written notice of disconnect for non-payment until that principal is delinquent. (Commission General Orders dated 2/20/73 and 7/12/76) Such notice shall not be general in character but shall specifically advise the individual customer concerned that service will be discontinued five days thereafter unless the bill is paid. The contents of such notice shall be limited to the purpose above described and shall not include any other matter. (See *LPSC General Order dated 9/10/57*)

E. Change of Billing Period: Any utility changing its billing period will enclose with the first new bill following the change a separate notice printed on paper of a distinctive

color stating that the billing date is being changed with an explanation of the change and that the enclosed bill covers _____ days from (date) to (date). (See *LPSC Special Order No. 14-59 dated 12/5/59*)

F. Estimating Utility Bills:

1. Utilities utilizing meters shall not bill a customer for utility consumption except on the basis of actual meter reading. This shall not be applicable to utilities whose member-customers provide the meter reading services.

2. Exceptions may be made in those cases when meters are read pursuant to mutual agreement between the utility and the customer or when monthly meter readings are not feasible.

3. Exceptions are granted for estimations when the inability to read the meter is not the fault of the company, provided that the company either leave on the premises or mail a post card to the customer to read the meter and return the card to the company. The bill can then be estimated for the billing period if the customer fails to return the card with the appropriate meter readings.

4. The Commission authorizes the estimation of bills where it is found that the meter has been tampered with or where there is fraud involved.

5. Estimations may also be made where the meter has been found to be faulty only if the customer agrees; if the customer does not agree, the request for estimation must be presented to the Louisiana Public Service Commission for its prior approval.

6. In no instance can the estimated billing exceed a period of 12 months from date of discovery of the faulty meter. (See *LPSC General Orders dated 7/11/75 & 1/21/76*)

G. Collection of Billing Errors: No rate on file with this Commission, and billings made pursuant thereto, shall be effective against a customer where the utility company has permitted six months to elapse between the rendition of service and accurate billing. Advance notice of billing errors must be provided to the customer before collection for such errors is permitted. (See *LPSC General Order dated 4/21/93*)

H. Prohibition Against Termination of or Denial of Service: Water and/or Wastewater utilities subject to the jurisdiction of the Commission shall not refuse to initiate new service or disconnect existing service due to the refusal of a customer to make payments on a

delinquent account that has been closed, with no further services charged or payments made on it, for a period of (3) three years or more unless and except a judgment has been issued by a court of competent jurisdiction on such delinquent account. (See LPSC General Order dated 12/13/93)

I. Meter Tests: Upon request of any customer, the utility will test the meter for accuracy. If the meter is found to be reading within a range of +/-3% accuracy, a charge can be levied by the utility for the cost of testing the meter. A meter tested and found to be in error (greater than +/-3% accuracy) should be repaired or replaced with no charge to the customer.

J. Line Item Billing of Taxes and Third Party Fees not Related to the Approved Rate:

1. All jurisdictional water and wastewater providers, shall describe each charge that is unrelated to the tariff for that service to their customers. These charges shall appear as a line item on each customer bill.

2. Each line item shall contain a brief explanation of the nature of the charge and the amount of said charge.

3. Charges not related to the approved tariff include, but are not limited to those items appearing on a bill where monies collected by a utility company are remitted to a third party. Examples of these charges shall include, but are not limited to, assessments imposed by federal, state, parish, municipal, or other local government authority, and shall include, but are not limited to, ad valorem taxes, sales taxes, franchise taxes, franchise fees, emergency 911 service, telecommunications for the deaf fund, or any payment by a utility to a municipality whether such payment be called a license, occupational, privilege, franchise or inspection tax, charge or fee where said charges are not included in a utility's approved tariff structure. (See *LPSC General Order dated 10/18/88*)

K. Non-Sufficient Funds (NSF) Fee: The maximum NSF check charge jurisdictional utilities are allowed to charge is \$20.00. (See *LPSC General Order dated 1/21/00*)

L. System Development and Capacity Reservation Fees:

1. Upon assessment of a system development charge to a non-residential customer, the utility must provide notice to the customer that the charge is subject to a true-up procedure.

2. New commercial customers which are assessed a System Development Charge in excess of \$10,000, but less than \$75,000 shall have the option of paying the System Development Charge to the utility in four quarterly installments. If the customer elects such an option, the utility shall have the right to charge interest on the amount deferred, at a rate equal to the utility's last authorized rate of return on equity. The first 25% installment of the System Development Charge shall be due upon signing of the Developer Agreement with the utility, and the remaining 75% shall be paid in three equal quarterly installments. If a developer fails to pay an installment of the System Development Charge within thirty days after a payment is due, the utility shall have the right to terminate or refuse service until the payment of that installment is made in full.

3. A commercial customer or the utility shall have the right to request that the utility perform a true-up of the System Development Charge that the customer has paid. A customer shall have the right to request such a true-up after the customer has fully occupied the facility and has received service for no less than eighteen months, but such a request must be received by the utility before the customer has received service for two years. If a customer submits a timely request for a true-up, the utility shall determine the customer's actual peak usage by determining the average daily usage of the peak month since service to the customer was initiated and the facility fully occupied for at least one year. If the customer's actual peak usage is less than 80% of its projected peak usage at the time the System Development Charge was initially calculated, then the utility shall calculate the System Development Charge based on the actual peak usage and shall refund the difference to the customer within 30 days of the recalculation.. If the customer's actual peak usage is more than 120% of its projected peak usage at the time the System Development Charge was initially calculated, then the utility shall calculate the System Development Charge based on the actual peak usage and the customer shall pay the utility any additional System Development Charge within 30 days of receiving notice of the recalculation.

4. The utility will keep sufficient records over the time period to make these determinations and will initiate the cost comparison. These records shall include a record of each system development charge showing the name, location, amount and date. (Established by *LPSC General Order dated 11/22/06*, modified and superseded by *LPSC General Order dated 8/9/07*)

M. Department of Environmental Quality (DEQ) Fees: Wastewater utilities subject to the jurisdiction of this Commission shall have authority to flow through to its customers on a monthly basis the annual permit fee assessed by the DEQ with the bills to specifically reflect this charge by the DEQ, with other expenses or penalty fees associated therewith to be considered as ordinary administrative expenses not subject to flow through to customers. (See *LPSC Order No. U-16239 dated 10/17/84* and *General Order dated 10/18/1988*)

N. Collection Contracts:

1. Any municipal corporation, parish, or sewerage district operating a sewerage system shall have power to execute a contract with any municipal corporation, parish, water district, or private water company operating a water system serving customers in the area served by said sewerage system, and any municipal corporation, parish, water district, or private water company is authorized and empowered to execute and enter into a contract with any municipal corporation, parish, or sewerage district providing sewerage service to customers of said municipal corporation, parish, water district, or private water company, which contract may contain such terms and privileges as may be agreed upon between the parties thereto pursuant to which service charges imposed for service rendered by the sewerage system will be collected for the municipal corporation, parish, or sewerage district by the municipal corporation, parish, water district, or private water company and which may include provisions for a procedure to enforce collection of sewer charges by an agreement to shut off the service of the supply of water to any premises delinquent in the payment of either its water charges or sewer charges.

2. Such municipal corporation, parish, or sewerage district may agree to supply any such municipal corporation, parish, water district, or private water company operating a water system with such indemnity bond or liability insurance as such

municipal corporation, parish, water district, or private water company may consider necessary for its protection.

3. Any such contract shall not require the approval of any state department, agency, or commission.

4. It is the policy of this state that any municipal corporation, parish, or sewerage district operating a sewerage system may in its discretion assess a charge to any premises for the connection of such premises to such sewerage system.

5. Any municipal corporation, parish, or water district operating a water system shall have the power to execute a contract with any municipal corporation, parish, sewerage district, or private sewerage company serving customers in the area served by said sewerage system, and any municipal corporation, parish, sewerage district, or private sewerage company is authorized and empowered to execute and enter into a contract with any municipal corporation, parish, or water district providing water service to the customers of said municipal corporation, parish, sewerage district, or private sewerage company, which contract may contain such terms and privileges as may be agreed upon between the parties thereto pursuant to which service charges imposed for service rendered by the municipal corporation, parish, sewerage district, or private sewerage company will be collected by the municipal corporation, parish, or water district and which may include provisions for a procedure to enforce collection of sewer charges by an agreement to shut off the services of the supply of water to any premises delinquent in the payment of either its water charges or sewer charges.

6. The municipal corporation, parish, or water district may require any such municipal corporation, parish, sewerage district, or private sewerage company operating a sewerage system to supply such indemnity bond or liability insurance as the municipal corporation, parish, or water district may consider necessary for its protection.

7. Any such contract shall not require the approval of any state department, agency, or commission.

8. It is the policy of this state that any municipal corporation, parish, or water district operating a water system may in its discretion assess a charge to any premises for the connection of such premises to such water system.

9. Nothing herein shall preclude a private sewerage company from executing into a collection and/or enforcement contract with a private water company, which contract may contain such terms and privileges as may be agreed upon between the parties thereto consistent with Commission rules and regulations.

Section 701. Duplication of Services/Paralleling of Mains by Water Utilities; Prohibition

No water utility shall construct or extend its facilities or furnish or offer to furnish water service to any point of connection which at the time of the proposed construction, extension or service is receiving regular service from another water utility; nor shall any water utility construct or extend its facilities or furnish or offer to furnish water service to any point of connection which is located within three hundred feet of a water main of another public utility which is capable of providing water in sufficient quantity and at sufficient pressure as is required by the customer at the point of connection, except with the written consent of such public utility. (Established by *LPSC General Order dated 6/1/95*)

Section 801. Petition for Release from Water System

Any customer receiving service from a water utility who feels aggrieved with the service being offered to or received by him may apply to the Louisiana Public Service Commission for an order directing his present supplier to show cause why the customer should not be released from said supplier, and if the Commission shall find that the service rendered to such consumer is inadequate for any reason whatsoever and will not be rendered adequate within a reasonable time not to exceed (6) six months, the release shall be granted, subject to the following conditions: 1) the customer shall pay for any and all necessary and LPSC approved fees or costs associated with the disconnection of service from the previous provider; 2) the customer shall pay for any and all necessary and LPSC approved fees associated with connection to the new provider; and 3) the previous provider shall return any deposit to the customer after allowable deductions or additions. (Established by *LPSC General Order dated 6/1/95*)

Section 901. "Sub-Metering" and Resale of Utility Service; Prohibition

A. No utility shall be required to furnish service for resale nor shall any service provided by the utility be sub-metered or further distributed by any customer for purpose of resale unless such customer is a municipality, a Department of the State or Federal Government

or a public utility whose rates for such service is distributed to the tenants thereof by the landlord unless a charge over and above the rent is made for such service.

B. This prohibition includes any type of unmetered allocation method or “ratio” billing such as “RUBS” (ratio utility billing service).

Section 1001. Extension Policy

A. A Company will calculate the actual cost of the proposed extension of facilities and/or any necessary enlarging of existing facilities to which the proposed extension will be connected and directly allocable to such proposed extension; such cost to include the actual direct labor and materials required plus a maximum of 15% to cover supervision, engineering and all other overheads and contingencies. If the estimated cost of the extension is not greater than the estimated gross revenue to be derived there from for a period of four years, less the actual cost of the services and meters to be installed, then in that event the extension will be made at no cost to the applicant or applicants for service, or their duly authorized agent. In the event of any controversy regarding estimated costs of service to be rendered the matter may be referred to the Commission for arbitration.

B. If the cost of the extension as above defined exceeds their estimated gross revenue to be derived there from for a period of four years, less the actual cost of service and meters to be installed the Company shall offer to enter into a refunding contract with the applicant or applicants, or their duly authorized agent, providing for the deposit of the entire amount of such excess by the said applicant or applicants or their duly authorized agent, setting forth the conditions of the deposit and of refunds hereinafter described.

C. The Company will agree to refund to the original depositor or depositors, or their agent, annually beginning on the first anniversary date of the refunding contract, or at such intervening period as the Company may elect, during the first five (5) years after the date of the installation of service as follows: For each new customer in addition to those participating in the refunding contract taking service directly from the extension covered by the contract, the Company will refund a sum equal to the estimated gross revenue to be derived from the said new customer for a period of four (4) years, less the cost of the meter and service necessary to supply the customer. For this purpose, any new customer requiring service beyond the limits of the original extension shall not entitle the original contributors to any refund.

D. In the event that the crossing of a street or a highway in the excess of 60 feet in width is necessary for water mains, such as a crossing may be considered as being beyond the limits of the original extension.

E. Nothing herein shall preclude a water or wastewater utility from negotiating individual extension and cost sharing agreements with applicants on a case-specific basis.

Section 1101. Filing of Tariffs, Requests for Rate Increases and Requests for Increases in Non-Recurring Charges.

A. **Tariffs:** All water and/or wastewater utilities regulated by the LPSC will adopt and have on file an approved tariff or rate schedule. No modifications or revisions of rules and regulations or schedules of rates and charges shall be effective until filed with and approved by the Commission. (See *LPSC General Order dated 7/1/21*) These rules and regulations do not in any way invalidate any existing contracts not otherwise conflicting with these rules and regulations. Modifications to tariffs having no effect on rates may be reviewed and considered by Commission Staff.

B. **Requests for Increases in Rates:** No water and/or wastewater utility may increase its rates without prior Commission approval. An application seeking an increase in rates shall not be considered effectively filed unless it is accompanied by certain supporting documentation.

1. A list of the existing and proposed rates by customer class, i.e. residential, commercial, industrial, etc.
2. A clear explanation why the rate increase is necessary.
3. If the requested increase is to comply with other regulatory agencies mandated requirements, i.e., DEQ, EPA, DHH, etc., supporting documentation from the appropriate agency substantiating these mandates.
4. If the requested increase is to repay loans provided by the USDA, Rural Utility Service (RUS) or loan from other government agency, a copy of the terms of said loan.
5. If the requested increase is to fund a capital improvement project, a line item budget showing the total cost of the project, and state why it is necessary.

6. The number of customers served, by customer class, and the area served and average monthly consumption, if metered water.

7. An income statement and balance sheet for the last accounting reporting period (test year) and the previous twelve (12) months.

8. A statement attesting that annual reports due for the last three (3) years have been filed with the Commission.

9. The name, address and telephone number of a contact person for the rate case.

10. The application fee by check or money order made payable to the Louisiana Public Service Commission.

11. Proof of publication of the change in rates in the official state journal and the official journal of each parish within the geographical area in which the schedule would become applicable.

Only upon submission of the aforementioned documentation will an application will be considered effectively filed.

C. Annual Rate Adjustments

Section Reserved for future use. See Docket R-31002

D. Requests for Increases in Non-Recurring charges.

No water and/or wastewater utility shall increase its non-recurring charges without prior Commission approval. Such a request may be made in connection with a rate filing, and is thus subjected to the requirements of Section B, above. If the water and/or wastewater utility is seeking only an increase in one or more non-recurring charge, a request may be filed with the executive secretary, published, and reviewed and considered by Commission Staff.

Section 1201. Rules Applicable to FHA /Non-Profit Systems

A. FHA/Non-Profit water and wastewater systems, as public utilities, are subjected to the jurisdiction of the Louisiana Public Service Commission and these rules and regulations. However, due to the not-for-profit nature of these systems, rate structures that differ from “for-profit” systems are commonly used. Accordingly, the following exemptions to these rules and regulations are recognized

1. Any fee or charge authorized by the USDA or its predecessor agencies, or by the elected board of a FHA/non-profit system, prior to the effective date of these rules and regulations, that differs from the fees and charges adopted by these rules and regulations, shall be valid, provided that it is filed with the Commission. Such rates and fees may be reassessed when said system applies with the Commission for an adjustment in rates.
 2. Any rules and regulations authorized by the USDA or its predecessor agencies, or by the elected board of a FHA/non-profit system, prior to the effective date of these rules and regulations, that differs from the rules and regulations adopted herein, shall be valid provided they are filed with the Commission.
 3. A FHA/non-profit system may petition the Commission to grant additional exemptions not otherwise provided for above.
- B. FHA/Non-Profit systems shall provide the Commission's Utility Division copies of the official minutes of any annual board meetings that result in the change in the composition of the system's elected board.
- C. Streamlined Requests for Increases in Rates:
1. A Non-Profit system may request an increase in rates, using a streamlined review process, by submitting an application containing the following:
 - a. The information required by Section 1101. B. of these regulations, when applicable;
 - b. A rate study conducted by the Louisiana Rural Water Association justifying the increase in rates, and
 - c. Documentation providing evidence of board approval of the change in rates, as outlined in the following process:
 - (i) The board of directors shall conduct a meeting of the board to discuss evidence of a need for a rate change and shall provide all directors with an opportunity to participate. If by a majority vote of the board of directors, the board agrees that a change in rates is needed, a copy of that vote shall be provided to the Commission.
 - (ii) Written notice by mail shall be given to all water user members sixty days prior to the board meeting. The notice may be included in a billing notice.

2. Commission Staff will review a proposal submitted pursuant to this section and, following review, submit it to the Commission for approval. To the extent practicable, such review will be completed within 90 days of submission.

- D. A non-profit system may, in addition to a request for an increase in rates, seek the approval of a surcharge to be placed in escrow to fund extraordinary expenses and emergency repairs. The Commission may, in its discretion, order the implementation of such an account should it deem necessary.

Historical Notes

Sections C and D added by the General Order dated September 12, 2014, Docket R-33198.

Section 1301. Violations

Failure of a water or wastewater utility to comply with any of the above regulations, or any Commission order for which other fines or penalties are not previously established may, after notice and hearing, result in the imposition of monetary fines not to exceed ten thousand dollars (\$10,000) per violation and/or other penalties as provided by law.

Section 1401. Impact on Previously Authorized Rules and Regulations; Waiver; Other Laws; Severability

- A. Nothing in these rules shall be construed to limit or repeal the application of any state or federal rule regarding water or wastewater utility service.
- B. Any company-specific rules and regulations authorized by this Commission prior to the effective date of these rules and regulations, that differ from the rules and regulations adopted herein, shall be valid provided they are filed with the Commission.
- C. A water or wastewater utility may petition the Commission to be exempted from any of the rules or regulations stated herein.
- D. Severability:
1. If a court of competent jurisdiction finds any provision of these Regulations to be invalid or unenforceable as to any water or wastewater utility or circumstance, such finding shall not render that provision invalid or unenforceable as to any other water or wastewater utility or circumstances. If feasible, any such offending

provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of these Regulations in all other respects shall remain valid and enforceable.

2. If any provision of these Regulations is stayed in connection with a judicial review of these Regulations, the remaining provisions of these Regulations shall remain valid and enforceable.