

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 35
RULES GOVERNING
INNOVATIVE, ALTERNATIVE SEWER SYSTEMS

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

§150-35-1. General.

1.1. Scope. - These rules govern the operation and service of Innovative, Alternative Sewage Disposal Service systems subject to the jurisdiction of the Public Service Commission pursuant to W. Va. Code §24-2-1.

1.2. Authority. - W. Va. Code §§24-1-1, 24-1-7, 24-2-1, 24-2-2, 24-2-5, 24-2-7, 24-2-8, 24-2-9, 24-3-2, 24-3-5, 16-13A-2, 16-13A-9, and 8-18-23.

1.3. Filing Date. - November 22, 2011.

1.4. Effective Date. - January 23, 2012.

1.5. General.

1.5.a. These Rules for the Government of Innovative, Alternative Sewer Systems, 150CSR35 (Innovative, Alternative Sewer System Rules), supplement the current Commission Rules for the Government of Sewer Utilities, 150CSR5 (Sewer Rules). Whenever there is any conflict between the Sewer Rules and the Innovative, Alternative Sewer System Rules for matters relating to Innovative, Alternative Sewage Disposal Service systems, the more specific provisions of the Innovative, Alternative Sewer System Rules, 150CSR35, shall apply. For matters relating to Innovative, Alternative Sewage Disposal Service systems that are not addressed in the Innovative, Alternative Sewer System Rules, the provisions in the Sewer Rules shall apply.

1.5.b. These rules are intended to insure adequate service to the public via Innovative, Alternative Sewer Disposal Service systems, to provide standards for uniform and fair charges and requirements by the utilities and their customers, and to establish the rights and responsibilities of both utilities and customers.

1.5.c. The adoption of these rules in no way precludes the Commission from altering or amending them in whole or in part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility.

1.5.d. These rules will not relieve in any way a utility from any of its duties under the laws of this State.

1.6. Application of rules.

1.6.a. These rules apply to all public utilities as defined in Sewer Rule 1.7, 150CSR5-1.7.

1.6.b. If hardship results from the application of any Innovative, Alternative Sewer System Rule or if unusual difficulty is involved in immediately complying with any Innovative, Alternative Sewer System Rule, application may be made to the Commission for the modification of the rule or for temporary or permanent exemption from its provisions. Provided, that no application for modification or exemption will be considered by the Commission unless there is submitted therewith a full and complete justification for such action.

1.7. Definitions.

1.7.a. "Available Innovative, Alternative Sewage Disposal Service" – the utility, private or public, has installed and/or agreed to maintain such systems for a fee based on metered water usage when available or a flat rate.

1.7.b. "Cluster" – a small group of customers located in a remote area served by a single Innovative, Alternative sewage disposal system.

1.7.c. "Innovative, Alternative Sewage Disposal Service" – a system that relies on underground dispersal of treated wastes, small media based treatment facilities receiving effluent from customers and discharging treated effluent to either streams or to underground dispersal areas, home aeration units, individual onsite septic systems installed and/or maintained by a sewer utility and other non-traditional technologies designed to meet the wastewater treatment needs of customers in remote areas where large public sewer facilities are not available. Innovative, Alternative Sewage Disposal Service may be provided to an individual customer or a cluster. Relating to the application or interpretation of the Innovative, Alternative Sewer System Rules, the terms "Innovative," "Alternative" and "Innovative, Alternative" may be used interchangeably.

1.7.d. "User Agreement" – a written agreement between the sewer utility and the customer who receives Alternative, Innovative Sewage Disposal Service from the sewer utility.

§150-35-2. Maps and records.

2.1. Entire layout required. – In addition to the requirements of Sewer Rule 2.6, 150CSR5-2.6, each utility shall keep on file suitable maps, plans, and records showing the entire layout, with the location, size and capacity of each Innovative, Alternative treatment facility, septic tank, underground dispersal area, reserve or set-aside installation area used to provide Innovative, Alternative Sewage Disposal Service.

2.2. Electronic and paper copies required. – Because of the unique nature of Innovative, Alternative Sewer Disposal Service and to maintain the currency of the system mapping, the sewer utility shall be required to submit to the Commission as-built electronic data files for all projects, in addition to the paper copies. To comply with this requirement, the sewer utility may provide the Commission with materials that the sewer utility receives from the project designer. The electronic file must be submitted with the original reproducible drawing when the project is substantially complete. A digital representation of all structures, gravity sewers, force main sewers, septic tanks, drain fields, treatment facilities and parcels where ownership or rights of way are acquired shall be delivered in .pdf format and use the appropriate North American datum (NAD) as specified by the utility.

2.3. Specific information requirements. – The following information shall be submitted to the Commission on a computer disk in .pdf format. Each type of Innovative, Alternative sewer infrastructure shall be included. All gravity sewer lines are to begin and terminate at each manhole, all force main sewers shall include clean outs appropriately spaced, and all septic tanks shall be clearly identified as to type, age and size.

- a. Roads (street names)
- b. Buildings and other structures
- c. Property lines
- d. Sanitary sewer details, including
 - 1. Manholes
 - 2. Gravity sewer lines and force mains
 - 3. Laterals and clean outs
 - 4. Valves, plugs, and pump stations
 - 5. Septic tanks and drain fields
 - 6. Service lines and tap locations
- e. Water system details, including those being constructed by the sewer utility
 - 1. Water mains
 - 2. Service lines between the main and the meter
 - 3. Water valves
 - 4. Fire hydrants and hydrant valves
 - 5. Water meters
 - 6. Air release valves
 - 7. Blow-offs and plugs
 - 8. Wells
- f. Easements
- g. Other underground utilities

The requirements of this rule to file information in .pdf format shall not preclude Commission Staff from requesting data in other formats.

2.4. Pre-requisite for initiation of service. – All designs, location information and installation certifications shall be submitted to the Commission prior to initiation of Innovative, Alternative Sewage Disposal Service.

§150-35-3. Reserve account.

3.1. Pre-funding requirement. – All sewer utilities that do not provide sewer service on the effective date of these Rules and seek to provide Innovative, Alternative Sewage Disposal Service shall provide to the Commission in the certificate of public convenience filing to construct and operate such a system evidence of the pre-funding of a reserve account equal to six (6) months of revenue for each customer to be served by the Innovative, Alternative Sewage Disposal Service. Such reserve must be segregated and maintained separately from other funds of the utility. The requirement for a reserve account, or the exemption for active utilities already providing sewer service, may be waived or modified by the Commission for good cause.

3.2. Separate accounting. – Any utility required to establish a pre-funding reserve account will keep a separate subsidiary ledger of the revenues and expenses incurred in providing Innovative, Alternative Sewage Disposal Service.

3.3. Access to reserve account. – The reserve account may be accessed to provide revenue to the sewer utility in the event that the revenues collected from customers receiving Innovative, Alternative Sewage Disposal Service are less than the projected incremental revenue levels approved by the Commission.

3.4. Commission review. – The Commission shall review the activity in the reserve account in the context of the filing of a rate case by the utility or upon motion of the Commission. If the account falls below the six-month (6-month) required revenue requirement level at the end of any year, the Commission may consider the use of a surcharge or other means to restore the reserve account to the six-month (6-month) revenue requirement level.

§150-35-4. Billing.

4.1. Calculating the bill. – All bills for Innovative, Alternative Sewer Disposal Service shall state whether the charge is based upon quantities of water consumed at the premises, flat rate or other basis.

4.2. No public water. – When public water is not available to the customer, the sewer utility may issue a flat rate bill or install a water meter on the customer's water well or water supply system to the premises being served and issue a bill based upon quantities of water consumed.

4.2.a. If the utility elects to install a water meter, it must first acquire rights of way from the customer that allow the utility to access the metering equipment and inspect the customer facilities. The rights of way shall be recorded in the real property records at the Court House in the County in which the customer property is located.

4.2.b. Any water meter installed by the sewer utility pursuant to this rule shall be subject to the calibration requirement in the Commission Rules for the Government of Water Utilities, 150CSR7. The meter shall be calibrated and maintained by the utility.

4.3. Public service district and municipal sewer utility customers who do not connect. – Customers of public service sewer districts and municipal sewer utilities who are not connected to Available Innovative, Alternative Sewage Disposal Service after appropriate notice has been given shall be billed based on actual water consumption or the average monthly water consumption based upon the owner's, tenant's, or occupant's specific customer class.

§150-35-5. Notice of availability of Innovative, Alternative Sewage Disposal Service.

5.1. Public service districts and municipal sewer utilities.

a. Publication and personal service required, generally. – When Innovative, Alternative Sewage Disposal Service is made available to customers in an area that has not previously been served by the municipal sewer utility or public service district, the municipal sewer utility or public service district shall publish a notice in a newspaper of general circulation in the area affected and provide notice by personal service to customers in the area affected.

b. When publication is not required. – Publication is not required when Innovative, Alternative Sewage Disposal Service is extended to a single customer at the customer's request.

c. Notice by publication. – The municipal sewer utility or public service district shall publish notice of the availability of Innovative, Alternative Sewage Disposal Service once a week for two consecutive weeks, with the second notice being published at least thirty (30) days prior to the date that the municipal sewer utility or public service district intends to begin billing for services.

d. Notice by personal service. – The municipal sewer utility or public service district shall provide notice to all potential customers either by certified mail, return receipt requested, by personal service with signed and dated receipt, or by posting a notice on the premises. If the premises to be served is not inhabited by the owner, notice shall be given to the owner by certified mail, return receipt requested, in addition to giving notice to the inhabitant of the premises. In the event that the municipal sewer

utility or public service district is not able to effect personal notice after a good faith effort, or if the municipal sewer utility or public service district believes that the requirements of this section create an undue hardship, the municipal sewer utility or public service district may petition the Commission for a waiver of the requirements to provide personal notice.

e. Notice requirements. – Both the published and personal notice shall state, at a minimum, the following information:

1. that sewer services are available
2. the date that the municipal sewer utility or public service district will begin billing for sewer services
3. the municipal sewer utility's or public service district's rates
4. that the municipal sewer utility may petition the circuit court to compel connection to the sewer system, or that W. Va. Code §16-13A-9 authorizes the public service district to petition the circuit court to compel connection to the sewer system,
5. the location and telephone number of the municipal sewer utility's or the public service district's business office
6. the amount of the bill to be rendered by the municipal sewer utility or by the public service district as provided by W. Va. Code §16-13A-9, in the event a customer does not connect to the system.

5.2. Utilities other than public service districts and municipal sewer utilities – All of the publication and personal service provisions set forth above apply, except that the publication and personal notice shall not state that the sewer utility may petition the circuit court to compel connection to the sewer system.

§150-35-6. Customer User Agreement and educational outreach.

6.1. User Agreement required. – Any provider of Innovative, Alternative Sewage Disposal Service shall require all new customers to sign a User Agreement accepting for at least 10 years the type of Innovative, Alternative Sewage Disposal Service to be provided and the method by which billing will occur. If the facilities include on-site treatment of effluent, the User Agreement shall define all of the requirements and responsibilities of the customer with the appropriate charges noted. The User Agreement shall be recorded in the real property records at the Court House in the County in which the customer property is located.

6.2. Educational outreach required. – Any provider of Innovative, Alternative Sewage Disposal Service that files a certificate of public convenience and necessity application for facilities to provide such service must submit a customer education and outreach plan as a part of the certificate application.

6.3. Customer education and outreach plan requirements. – The customer education and outreach plan must include, at least, the following:

a. If septic tanks are a component of the collection and treatment system, an outlined method for disseminating information regarding septic system maintenance, prohibited waste stream discharges and customer responsibilities. The plan should clearly define the charges that the sewer utility will assess if a customer fails to follow the tank maintenance requirements. The plan also should clearly delineate septic tank ownership and maintenance responsibilities (including regular pumping of tanks and associated costs) and the replacement schedule. If existing septic tanks are to be incorporated into the new collection and treatment system, and a cost-sharing arrangement is to be implemented for tank and/or onsite system maintenance activities, the education and outreach plan must provide a complete detail of related costs and responsibilities.

b. The education and outreach plan information shall be presented to the customer when the customer applies for Innovative, Alternative Sewage Disposal Service.

c. Customer outreach and education will occur thereafter at least every 2 years.

d. The customer education and outreach plan and all related information must be available at the sewer utility's business office during normal business hours.

§150-35-7. Certificate of Public Convenience and Necessity.

7.1. Certificate required. – Any utility or entity that will serve a total of 25 or more customers through Innovative, Alternative Sewage Disposal Service facilities must apply for a certificate of public convenience and necessity for the construction and operation of those facilities. A Class A sewer utility may petition the Commission for a determination of whether a proposed Innovative, Alternative Sewer Disposal Service facility is an ordinary extension of the existing system in the usual course of business.

7.2. Designation of area served. – Innovative, Alternative Sewage Disposal Service facilities may only be installed in accordance with the certificate approved by the Commission.

§150-35-8. Installation; Acceptance of facilities; Initiation of service.

8.1. Utility service pipe when septic tanks are used. – For Innovative, Alternative Sewage Disposal Service facilities using septic tanks, the point of service shall be the customer inlet pipe to the septic tank. If the septic tank is located on an adjacent property, the point of service is the customer's property line with any adjoining customers.

8.2. Standard installation for systems with on-site effluent treatment. – For Innovative, Alternative Sewage Disposal Service facilities using septic tanks with individual on-site effluent dispersal fields or other on-site effluent treatment technologies, the sewer utility shall adopt standard methods of installation where practicable that meet, as a minimum, all existing West Virginia Bureau for Public Health requirements. Such methods shall be set out with written descriptions and drawings to provide a clear understanding of the requirements, all of which shall be submitted to the Commission. The customer using the on-site system shall also be provided with written information outlining the care of the tank and dispersal field and the charges for violation of those practices.

8.3. Acceptance of facilities. – Prior to acceptance of any Innovative, Alternative Sewage Disposal System facilities, the sewer utility shall require from its Engineering Department and/or its contracted Engineer or Engineering Inspector a certification stamped with the seal of a Registered Professional Engineer stating that all construction and/or installation requirements per the Engineering drawings have been met and meet any and all current Bureau for Public Health or the Department of Environmental Protection standards that apply to each installation and/or part of the system. The certification shall include record photographs of all valve installations, video records of at least fifty percent (50%) of each size of total pipe length installed prior to burial, video records of all tank installations prior to initiation of service, concrete strength reports, water tightness testing of all tanks and manufacturers and/or vendor certifications that all materials supplied meet all pertinent standards.

8.4. Construction management. – A designated employee of the sewer utility, a member of the Bureau for Public Health or a contract inspector hired by the utility with at least five years of pertinent utility construction experience shall review and approve all video recordings of the new installation prior to release of any construction payments. The sewer utility may supply a full time inspector to review all construction installations prior to burial to meet the review requirement.

8.5. Approval by the Commission – The sewer utility shall file each contract for Commission review and receive approval from the Commission before the sewer utility may take ownership of any Innovative, Alternative Sewage Disposal Service facility.

8.6. Initiation of service. – Prior to initiation of service of any Innovative, Alternative Sewage Disposal Service facility, the sewer utility shall receive a complete set of as-built drawings in both hard printed copy and fully executable electronic AutoCad files. The utility shall also receive all electronic files from any aerial photography, geologic studies and any other files required to complete the installation.