

**DEPARTMENT OF ADMINISTRATIVE SERVICES
PUBLIC SERVICE COMMISSION**

Statutory Authority: 26 Delaware Code, Section 209(a) (26 Del.C. §209(a))

PROPOSED

IN THE MATTER OF THE]	
ADOPTION OF REGULATIONS]	
GOVERNING THE MINIMUM]	PSC
STANDARDS FOR SERVICE PROVIDED]	Regulation
BY PUBLIC WASTEWATER UTILITIES]	Docket
SUBJECT TO THE JURISDICTION OF]	No. 55
THE DELAWARE PUBLIC SERVICE]	
COMMISSION]	
(OPENED FEBRUARY 22, 2005)]	

ORDER NO. 6581

AND NOW, this 22nd day of February, 2005;

WHEREAS, on July 6, 2004, legislation was enacted by the Delaware General Assembly, found at 74 **Delaware Laws**, Chapter 317, which granted the Delaware Public Service Commission ("the Commission") jurisdiction to regulate Wastewater Utilities having more than fifty customers (hereinafter collectively "Wastewater Utilities"), including the jurisdiction to grant and revoke Certificates of Public Convenience and Necessity ("CPCNs"); and

WHEREAS, in connection with the implementation of this new jurisdiction over Wastewater Utilities, the Commission deems it appropriate, advisable, and in the public interest to promulgate regulations intended to govern the minimum standards for service provided by Wastewater Utilities; and

WHEREAS, the Commission has considered proposed regulations prepared by the Commission's Staff; now, therefore,

IT IS ORDERED THAT:

Pursuant to 26 **Del.C.** §209(a), and 29 **Del.C.** §§10111 *et seq.*, the Commission promulgates proposed *Regulations Governing the Minimum Standards for Service Provided by Public Wastewater Utilities Subject to the Jurisdiction of the Delaware Public Service Commission* ("Regulations").

The Secretary of the Commission shall transmit to the Registrar of Regulations for publication in the *Delaware Register* the notice and the proposed Regulations attached hereto as Exhibits "A" and "B" respectively.

The Secretary of the Commission shall cause the notice attached hereto as Exhibit "A" to be published in *The News Journal* and the *Delaware State News* newspapers on or before April 1, 2005.

The Secretary of the Commission shall cause the notice attached hereto as Exhibit "A" to be sent by United States mail to all Wastewater Utilities currently operating under a CPCN in Delaware, all persons who have an application for a CPCN for a wastewater system pending before the Commission, and all persons who have made timely written requests for advance notice of the Commission's regulation-making proceedings.

Ruth A. Price is designated as the Hearing Examiner for this matter pursuant to 26 **Del.C.** §502 and 29 **Del.C.** Ch. 101, and is authorized to organize, classify, and summarize all materials, evidence, and testimony filed in this docket, to conduct the public hearing contemplated under the attached notice, and to make proposed findings and recommendations to the Commission concerning Staff's proposed regulations on the basis of the materials, evidence, and testimony submitted. Hearing Examiner Price is specifically authorized, in her discretion, to solicit additional comment and to conduct, on due notice, such public hearing(s) as may be required to develop further materials and evidence concerning any later-submitted proposed regulations or amendments thereto.

Francis J. Murphy, Esquire, is designated Staff Counsel for this matter.

The public utilities regulated by the Commission are notified that they may be charged for the cost of this proceeding under 26 **Del.C.** §114.

The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Arnetta McRae, Chair
Joann T. Conaway, Commissioner

Jaymes B. Lester , Commissioner

ATTEST:

Karen J. Nickerson, Secretary

Regulation Docket No. 55, Regarding the Minimum Standards for Service Provided by Public Wastewater Utilities Subject to the Jurisdiction of the Delaware Public Service Commission

EXHIBIT "A"

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE]	
ADOPTION OF REGULATIONS]	
GOVERNING THE MINIMUM]	PSC
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COMMISSION]	
(OPENED FEBRUARY 22, 2005)]	

PUBLIC NOTICE

The Delaware General Assembly has enacted legislation granting the Delaware Public Service Commission (“the Commission”) jurisdiction over Wastewater Utilities serving fifty or more customers in the aggregate. The law is found at 74 **Delaware Laws**, Chapter 317.

In connection with the exercise of jurisdiction over Wastewater Utilities, the Commission is promulgating proposed new regulations governing the Minimum Standards For Service Provided by Wastewater Utilities subject to the jurisdiction of the Commission. The first regulation sets forth: (a) the Commission’s authority to promulgate the regulations; (b) the applicability of the regulations; and (c) the definitions used in the regulations. The second regulation addresses: (a) the records and reports to be maintained by wastewater utilities; (b) information to be filed with the Commission; (c) the complaint records that are to be maintained; and (d) customer billing. The third regulation governs engineering subjects, including: (a) the authorization needed for operation or construction of a wastewater system; (b) wastewater plant operation; and (c) wastewater plant inspection. The fourth regulation deals with wastewater system safety programs. The fifth regulation governs customer relations, including: (a) applications for service; and (b) billing statement adjustment. The sixth regulation governs front-end capital contributions.

Copies of the proposed Regulations are available for public inspection at the Commission’s address set out below during normal business hours. The Commission has authority to promulgate the regulations pursuant to 26 **Del.C.** §209(a) and 29 **Del.C.** §10111 *et seq.*

The Commission hereby solicits written comments, suggestions, compilations of data, briefs, or other written materials concerning the proposed regulations. Ten (10) copies of such materials shall be filed with the Commission at its office located at 861 Silver Lake Boulevard, Cannon Building, Suite 100, Dover, Delaware, 19904. **All such materials shall be filed with the Commission on or before May 5, 2005.** Persons who wish to participate in the proceedings but who do not wish to file written materials are asked to send a letter informing the Commission of their intention to participate on or before April 5, 2005.

The regulations and the materials submitted in connection therewith will be available for public inspection and copying at the Commission's Dover office during normal business hours. The fee for copying is \$0.25 per page. The regulations may also be reviewed, by appointment, at the office of the Division of the Public Advocate located at the Carvel State Office Building, 4th Floor, 820 North French Street, Wilmington, Delaware 19801 and will also be available for review on the Commission's website: www.state.de.us/delpsc.

Any individual with disabilities who wishes to participate in these proceedings should contact the Commission to discuss any auxiliary aids or services needed to facilitate such review or participation. Such contact may be in person, by writing, by telephone, or otherwise. The Commission's toll-free telephone number (in Delaware) is (800) 282-8574. Any person with questions may also contact the Commission Staff at (302) 739-4247 or by Text Telephone at (302) 739-4333. Inquiries can also be sent by Internet e-mail to karen.nickerson@state.de.us.

E X H I B I T " B "

PROPOSED REGULATIONS GOVERNING THE MINIMUM STANDARDS FOR SERVICE PROVIDED BY PUBLIC WASTEWATER UTILITIES SUBJECT TO THE JURISDICTION OF THE DELAWARE PUBLIC SERVICE COMMISSION

1.0 General

1.1 Authorization For Regulations. Title 26 of the Delaware Code vests in the Delaware Public Service Commission the authority to formulate standards for such wastewater services and facilities as it deems necessary to carry out the provisions of this law. (26 Del.C. § 209)

1.2 Application Of Regulations. These regulations shall apply to any public wastewater utility operating within the State of Delaware, under the jurisdiction of the Delaware Public Service Commission. These regulations shall become effective ninety (90) days after adoption by the Commission.

1.2.1 Purpose. These regulations are intended to insure adequate service to the public, 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.

1.2.2 Duties Under Other Statutes. These regulations shall in no way relieve any utility from any of its duties under the laws of this State or regulations promulgated by other State or Federal agencies or authorities.

1.2.3 Exemption. If the application of these regulations will cause a utility unreasonable hardship, or if unreasonable difficulty is involved in compliance, the utility may apply to the Commission for a temporary or permanent exemption, provided that the utility shall submit with such application a full and complete statement of the reasons for the application. Applications for exemptions will be determined by the Commission upon due notice to the affected customers and after a hearing.

1.2.4 Modification. The adoption of these regulations shall in no way preclude the Commission, upon complaint, upon its own motion, or upon the application of any utility, from altering or amending them, in whole or in part, or from requiring any other or additional equipment, facility, or standard, or from making such modifications with respect to the utility's application as may be necessary to meet exceptional conditions. Any modification of these regulations shall be subject to the provisions of 29 Del.C. Ch. 64.

1.3 Definitions. The following words or terms, when used in these regulations, shall have the meaning indicated, unless the context otherwise requires:

"Collection System". Consists of service lines, mains, manholes, customer facilities such as service lines, pump stations, lift stations, and appurtenances, owned and operated by the utility that conveys wastewater from customers to the treatment facilities.

"Commission". The Public Service Commission of Delaware.

"Complaint". A complaint shall mean any specific objection to charges on the utility billing statement, facilities, practices, or services of a utility.

"Customer". Any person, including any individual, corporation, partnership, firm, association, company, proprietorship, cooperative, joint stock company, or other form of business enterprise or legal entity of any kind, or any government agency or entity served by a wastewater utility.

"Dwelling Unit". One or more rooms arranged for the use of one or more individuals as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities.

"Equivalent Dwelling Unit EDU". Is a measurement of the volume of wastewater for a single dwelling unit and is used as a means to compare wastewater flows from customers for other classes of wastewater service.

"Main". Any wastewater pipe, owned, operated, or maintained by a wastewater utility, which is used for the collection or conveyance of wastewater, excluding service lines.

"Meter". Without other qualifications, any device or instrument which is used by the utility in measuring the quantity of wastewater discharged from a customer or service area for recording or billing purposes.

"Premises". A tract of land or real estate, including buildings and other appurtenances thereon.

"Service Line". The pipe that runs from the main to the customer's premises.

"Shall". The use of the word "shall" in these regulations expresses a mandatory requirement.

“Should”. The use of the word "should" in these regulations expresses suggestion or guidance and is not mandatory.

“Utility”. Any person, including any individual, corporation, firm, partnership, association, company, proprietorship, cooperative, joint stock company, or other form of business enterprise or legal entity of any kind, that provides wastewater services, including collection, transport, or treatment of wastewater, and is subject to regulation by the Commission.

“Wastewater Plant”. Equipment, stations, and property owned or operated by a utility, used in its business operations to render wastewater service to its customers.

2.0 Records And Reports

2.1 Availability Of Records. All documents, including books, accounts, papers, records, computer files, electronic data, maps of service area indicating location of mains, pumping stations, and treatment facilities, and memoranda required by these regulations or necessary for the administration thereof, shall be open and available for examination by the Commission or its authorized representatives at all times.

2.2 Retention Of Records. All documents, including books, accounts, papers, records, computer files, electronic data, and memoranda required by these regulations shall be preserved for a minimum period of five (5) years.

2.3 Location. All documents, including books, accounts, papers, records, computer files, electronic data, and memoranda required by these regulations shall be kept in an office within this State, and shall not be removed from this State, except upon such terms and conditions as may be prescribed by the Commission. This provision shall not apply if the utility is engaged in interstate commerce, and its accounts are kept at its principal office outside this State. However, such utility, when requested by the Commission, shall furnish to the Commission, certified copies of all documents, including its books, accounts, papers, records, computer files, electronic data, and memoranda relating to the business done by such public utility.

2.3.1 All wastewater utilities shall maintain their accounts and records in compliance with the Uniform System of Accounts as promulgated in 1996 by the National Association of Regulatory Commissions.

2.3.2 Observance of the system of accounts applicable to the utility by appropriate class is obligatory upon all persons having direct charge of the books and accounts of the utility. For the purpose of securing uniformity in the applications of this system, all questions of doubtful interpretation of accounting rules are to be submitted to the Commission for consideration and decision.

2.4 Information To Be Filed With The Commission. Each utility shall file with the Commission, and keep current, a copy of its approved tariff.

2.4.1 Rates. The tariff shall include each schedule of rates for service.

2.4.2 Rules. The tariff shall include the utility's rules and regulations, or terms and conditions describing the utility's policies and practices in rendering service, and in its relations with customers or prospective customers.

2.4.3 Bill Forms. Each utility shall file with the Commission a sample of each type of customer billing statement, which shall include the information normally shown on a customer's bill for service.

2.4.4 Persons to Contact. Each utility shall file with the Commission and shall notify its customers, upon request, of the name, title, business address, and telephone number of the person(s) who should be contacted in connection with the following areas of operation:

2.4.4.1 management;

2.4.4.2 customer relations (complaints and billing inquiries);

2.4.4.3 engineering; and

2.4.4.4 emergencies during non-office hours and regular hours; and shall notify the Commission promptly of any changes.

2.4.5 Accident Notification. In the event of a fatal or serious accident, prompt notice shall be given to the Commission by telephone or such other means of communication designed to assure prompt notice to the Commission, followed by a full written report of such accident. A full written report is also required when the utility suffers any serious property damage. These reports shall be treated confidentially pursuant to 26 **Del.C.** §213(b).

2.4.6 Reports of Service Interruption. Each utility shall file with the Commission a report of any system failures or service interruption within ten (10) days after such an event has occurred. Reports shall include:

2.4.6.1 location and time of failure or interruption;

2.4.6.2 time that failure or interruption was remedied;

2.4.6.3 estimated number of customers affected; and

2.4.6.4 cause of the failure or interruption. Utilities shall make all possible efforts to re-establish service in the shortest time practicable with due regard to safety.

When service is interrupted for scheduled repairs or maintenance, such work should be done at a time that will cause the least inconvenience to customers. The customers who would be affected shall be notified prior to the scheduled interruption.

2.4.7 Annual Reports. Each utility shall file an annual financial statement based upon the accounts set out in the Uniform System of Accounts, or such other requirement as prescribed by the Commission. This annual report shall be filed with the Commission on or before April 30th of the following year.

2.5 Complaints.

2.5.1 Each utility shall keep a record of each complaint received. The complaint record shall contain:

2.5.1.1 complainant's name, address, and telephone number;

2.5.1.2 nature of the complaint;

2.5.1.3 date complaint was received;

2.5.1.4 when, how, and by whom the complaint was handled; and

2.5.1.5 disposition and findings of the complaint.

2.5.2 Resolution. All complaints should be handled promptly, courteously, and include a full investigation prior to any conclusion.

2.5.3 Disputes. After the Commission or the Company have completed an investigation of a customer's complaint concerning a bill, and when the issue is resolved in favor of the utility, the customer shall be afforded a reasonable time, not less than twenty (20) days, to pay the bill as finally determined.

2.6 Customer Billing. Billing for wastewater service may be based on the following:

2.6.1 Flat rate per EDU; and

2.6.2 Volume measured by water meters serving customer premises. In cases where a significant volume of water does not enter the sanitary sewer, or where water from another source enters the sanitary sewer, the measured water meter volume may be adjusted to more accurately reflect the volume of wastewater discharged. Any such adjustment is to be based on meter readings associated with increased or decreased billable volume. Any supplemental meters are to be provided at the expense of the customers and to be maintained in good operating condition subject to testing by the utility.

Wastewater flow measuring devices shall be maintained in good working order.

In cases where water meters are used as a basis for billing wastewater service, the terms and conditions for testing meters and billing adjustments shall be as provided in PSC Order No. 2076, relating to service governing water utilities.

3.0 Engineering

3.1 Authorization For Operation Or Construction. No person, including any individual, corporation, firm, partnership, association, company, proprietorship, cooperative, joint stock company or association, or other form of business enterprise or legal entity of any kind shall commence any construction of a wastewater system for public use without having been granted a Certificate of Public Convenience and Necessity, and such other permits as may be required by law. System expansion, even within the certificated area, shall not commence without approval of the plans by the Department of Natural Resources and Environmental Control (DNREC Reg. 4.06).

If the construction of an extension involves the acquisition of a private right-of-way, then the prospective customer or developer shall attempt to secure the right-of-way and deliver it to the utility free of cost before construction of the extension is started. If, however, it is not reasonably possible for the prospective customer or developer to secure the right-of-way, and the construction of the extension involves the utility's incurring expenses for right-of-way easements, such costs shall be added to the total cost of the extension.

Utilities are required to incorporate the terms and conditions applicable to contributions in-aid-of construction and refundable advances in their tariff rules and regulations.

3.2 Wastewater Plant Operation. The utility's wastewater plant shall be constructed, installed, maintained, and operated in accordance with current engineering practices in the wastewater industry, to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property, in compliance with relevant DNREC and Health Department regulations and policies.

3.3 Wastewater Plant Inspection. Each utility must adopt and file with the Commission a program of inspection of its wastewater plant in order to develop a capital improvement plan. The frequency of the various inspections shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.

4.0 Operation

4.1 System Safety Program. Each utility shall exercise reasonable care to reduce the hazards to which its employees, customers, and the general public may be subjected. A safety program should be adopted by each utility, fitted to the size and type of its operations.

4.1.1 "Miss Utility". All wastewater utilities are required to belong to and participate in the "Miss Utility" program to minimize third-party damage to other utilities as well as their own.

4.1.2 Promote Safe Work Methods. Each utility shall require its employees to use suitable tools and equipment in order that they may perform their work in a safe manner. The utility's employees who are subject to the hazards of asphyxiation, chemical handling, electrical shock, or drowning in the course of performing their work shall be properly instructed in the accepted methods of artificial respiration, including CPR (cardio-pulmonary resuscitation).

5.0 Customer Relations

5.1 Application For Service.

5.1.1 Rate Schedules. If applicable, each utility shall assist the customer or applicant in selecting the most economical rate schedule. If, after the selection of a service line diameter, the customer determines that a different size service is needed, the full cost of the new service or other facilities requested by the customer will be the responsibility of the customer.

5.1.2 Customer Notification. Customers affected by a change in rates or service schedule classification shall be notified by the utility.

5.1.3 Tariff Notice. Each utility shall keep in each office of the utility where applications are received, a copy of its currently approved tariff available for public inspection at any reasonable time.

5.1.4 Meter Reading. Every customer served by a wastewater utility shall be informed of the method of meter reading if meters are in place for billing purposes.

5.1.5 Interest on Deposits. When a utility's tariff requires or permits the collection of a deposit from customers, the utility shall pay interest on all such deposits at the rate of six percent (6%) annual simple interest. Interest shall be computed from the date of receipt of the deposit by the utility.

5.1.5.1 Interest on deposits shall be credited to the account of the depositor annually, at the time the deposit is returned, or when service is terminated, whichever is sooner; and

5.1.5.2 Deposits shall cease to draw interest on the date service is terminated, on the date the deposit is returned, or on the date that notice is sent to the depositor's last known address that the deposit is no longer required.

5.2 Billing Statement Adjustment. If wastewater service is billed on the basis of metered water usage, billing adjustments shall be calculated on the premise that the meter should be 100% accurate. For the purpose of a billing adjustment, the error in registration of the meter shall be calculated and applied as specified in the meter test rules of the wastewater utility tariff or PSC Order No. 2076 governing minimum service standards provided by public water companies.

6.0 Front-end Capital Contributions

Front-end capital contributions shall be required from all new connections to recover, at least in part, the cost of constructing conveyance, treatment, and disposal facilities incurred by the utility where applicable.

8 DE Reg. 1389 (4/1/05)