

Clarified Annex A

TITLE 52
PUBLIC UTILITIES
PART I. PUBLIC UTILITIY COMMISSION

Subpart C. Fixed Services Public Utilities

Chapter 53. Tariffs for Non-Common Carriers Filing Regulations

INFORMATION FURNISHED WITH THE FILING OF RATE CHANGES

§ 53.51. General.

(a) In order that the Commission may be concurrently advised of the net effect of a proposed change in rates upon the customers and the revenues of a public utility, as well as the *prima facie* reasonableness of the proposed rate changes, the data called for in §§ 53.51—53.56a, as appropriate, shall accompany the filing of the proposed rates.

(a.1) Each of the following jurisdictional entities listed in §§ 53.51(a.1)(1)—(a.1)(4) are subject to §§ 53.51—53.56a. For purposes of providing the data called for in §§ 53.51—53.56a to accompany the filing of proposed rates, each of the entities described in (a.1)(2)—(a.1)(4) are subject to the same filing requirements as a public utility, as such term is used in the singular or plural throughout §§ 53.51—53.56a.

(1) A public utility, as such term is defined in 66 Pa.C.S. § 102 (relating to definitions), that owns or operates in this Commonwealth equipment or facilities for at least one of the following activities:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity or steam for the production of light, heat or power to or for the public for compensation.

(ii) Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

(iii) Wastewater collection, treatment or disposal for the public for compensation.

(iv) Conveying or transmitting messages or telecommunications, except as a canal, turnpike, tunnel, bridge, wharf company and the like, by telephone or telegraph or domestic public land mobile radio service including, but not

limited to, point-to-point microwave radio service for the public for compensation.

(2) A city natural gas distribution operation, as such term is defined in 66 Pa.C.S. § 102 and used in the provision of 66 Pa.C.S. § 2212 (relating to definitions).

(3) An Authority, as such term is defined in 66 Pa.C.S. § 3201 (relating to definitions) and used in the provisions of 66 Pa.C.S. §§ 3202—3209.

(4) A municipal corporation furnishing or rendering public utility services or facilities beyond its corporate limits, but only to the extent of its services or facilities furnished, rendered, or extended beyond its corporate limits, consistent with the jurisdiction conveyed to the Commission in 66 Pa.C.S. § 1501 (relating to character of service and facilities).

(b) **[Utilities] Public utilities** shall file with the Commission Secretary an original of the proposed rate changes and of the data required under this chapter. If necessary or appropriate, the Secretary shall request additional copies.

(c) No tariff or tariff supplement will be deemed perfected for filing purposes until all data required by this chapter to accompany the tariff or tariff supplement **[is] are** filed with the Commission. A tariff or tariff supplement not accompanied by the data and required to be so accompanied is not perfected for filing purposes and will be rejected unless the Commission, by order and for good cause shown, allows the tariff or tariff supplement to be filed**;** **however, the submission of data regarding trended original cost referred to by this chapter shall be at the option of the public utility]. [In the event that] If** a tariff or tariff supplement filing is deemed not perfected and is rejected **[for the reason that] because** it is not in compliance with this chapter, the Secretary will notify the sender, within 30 days after the filing, that the filing is not perfected, and will, in the notice, set forth specifically the deficiencies in the filing.

(1) Whenever a tariff or tariff supplement filing is rejected in accordance with this subsection, the sender, in submitting an amended filing, shall submit a new proposed effective date, not earlier than 60 days after the amended filing is perfected, for the tariff or tariff supplement.

(2) Notwithstanding this subsection, if the Secretary fails to notify the sender within 30 days that a tariff or tariff supplement is not perfected because it is not accompanied by the required data, with deficiencies specifically set forth in the notice, the tariff or tariff supplement will be deemed perfected for filing purposes and will be filed as of the date it was first filed with the Commission.

(d) Each **public** utility filing a proposed rate change with the Commission shall serve a copy of the proposed rate change and supporting data required by this chapter upon the Office of Consumer Advocate, **the Office of the Small Business Advocate, the low-income advocates for the service territory, the Commission's Bureau of Investigation and Enforcement and the Commission's Bureau of Technical Utility Services.** [Verification of service of this information upon the Office of Consumer Advocate shall be filed with the Commission.] **Additionally, the public utility shall file a certificate of service of this information with the Commission.**

§ 53.51a. Definitions.

The following words and terms, when used in this subchapter (relating to information furnished with the filing of rate changes), have the following meanings, unless the context clearly indicates otherwise:

***Artificial gas*—A manufactured gaseous fuel created from coal, oil, and the like, as differentiated from natural gas.**

***EMOF*—Emergency maintenance and operation fund—An expense claim, by a small water public utility or a small wastewater public utility, in lieu of a cash working capital claim which may be allowable in anticipation of emergencies as a restricted reserve account.**

***FPFTY*—Fully projected future test year—A 12-consecutive-month period beginning with the first full month that the new rates will be in effect after the application of the full suspension period permitted under § 1308(d) of the Public Utility Code, 66 Pa.C.S. § 1308 (relating to voluntary changes in rates) and reflecting estimated results of operations of the public utility.**

***FTY*—Future test year—A 12-consecutive-month period beginning the day after the end of the HTY and reflecting in part estimated results of operations of the public utility based on adjustments to HTY amounts for known and measurable changes or other adjustments as supported by data.**

***HTY*—Historic test year—The experienced 12-consecutive-month period that reflects actual results of operations of a public utility based on book values, corresponding to one of the following time frames:**

(1) For a small water or small wastewater public utility, the experienced 12-consecutive month period ending no later than 180 days prior to the rate filing.

(2) For a public utility not subject to (1), either of the following:

(A) The public utility's most recent experienced 12-consecutive month fiscal period ending prior to the rate filing.

(B) The experienced 12-consecutive month period ending no later than 120 days prior to the rate filing.

Reserve account—A segregated account of a small water or a small wastewater public utility, to be funded by customer contributions collected by a small water or a small wastewater public utility through base rates for the purpose of making capital improvements to utility plant pursuant to a long-range plan developed in conjunction with the Commission or the Department of Environmental Protection or as required to assure compliance with State or Federal safe drinking water statutes or regulations.

Small wastewater public utility—A jurisdictional wastewater public utility with average gross annual revenue of less than \$250,000 (in all cases, annual revenue excludes contributions in aid of construction and advances for construction). The term also includes a municipal corporation providing jurisdictional wastewater service outside of its corporate limits with average gross annual revenue for such service of less than \$250,000 (in all cases, annual revenue excludes contributions in aid of construction, advances for construction, and non-jurisdictional operating revenue). Average gross annual revenue is calculated as an average of gross annual operating revenue for the last three calendar years.

Small water public utility—A jurisdictional water public utility with average gross annual revenue of less than \$250,000 (in all cases, annual revenue excludes contributions in aid of construction and advances for construction). The term also includes a municipal corporation providing jurisdictional water service outside of its corporate limits with average gross annual revenue for such service of less than \$250,000 (in all cases, annual revenue excludes contributions in aid of construction, advances for construction, and non-jurisdictional operating revenue). Average gross annual revenue is calculated as an average of gross annual operating revenue for the last three calendar years.

Test year—12-consecutive-month period used by the public utility in discharging its burden of proof under 66 Pa.C.S. § 315(a) (relating to burden of proof).

§ 53.52. Applicability; public utilities other than canal, turnpike, tunnel, bridge and wharf companies.

(a) Whenever a public utility, other than a canal, turnpike, tunnel, bridge or wharf company, files a tariff, revision or supplement effecting changes in the terms and conditions of service rendered or to be rendered, it shall [submit to] file with the

Commission, **[with the tariff, revision or supplement,]** statements showing all of the following:

- (1) The specific reasons for each change.
 - (2) The total number of customers served by the **public** utility.
 - (3) A calculation of the number of customers, by tariff subdivision, whose bills will be affected by the change.
 - (4) The effect of the change on the **public** utility's customers.
 - (5) The direct or indirect effect of the proposed change on the **public** utility's revenue and expenses.
 - (6) The effect of the change on the service rendered by the **public** utility.
 - (7) A list of factors considered by the **public** utility in its determination to make the change. The list shall include a comprehensive statement about why these factors were chosen and the relative importance of each. This **[subsection] paragraph** does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa.C.S. § 1308 (**relating to voluntary changes in rates**).
 - (8) Studies undertaken by the **public** utility in order to draft its proposed change. This paragraph does not apply to a portion of a tariff change seeking a general rate increase as defined in 66 Pa.C.S. § 1308.
 - (9) Customer polls taken and other documents which indicate customer acceptance and desire for the proposed change. If the poll or other documents reveal discernible public opposition, an explanation of why the change is in the public interest shall be provided.
 - (10) Plans the **public** utility has for introducing or implementing the changes with respect to its ratepayers.
 - (11) FCC, FERC or Commission orders or rulings applicable to the filing.
- (b) **[Whenever] When** a public utility other than a canal, turnpike, tunnel, bridge or wharf company files a tariff, revision or supplement which will increase or decrease the bills to its customers, it shall **[submit] file with the Commission** in addition to the requirements of subsection (a) **[, to the Commission, with the tariff, revision or supplement,]** statements showing **all of** the following:

(1) The specific reasons for each increase or decrease.

(2) The operating income statement of the **public** utility for [a 12-month period, the end of which may not be more than 120 days prior to the filing. Water and wastewater utilities with annual revenues under \$100,000 and municipal corporations subject to Commission jurisdiction may provide operating income statements for a 12-month period, the end of which may not be more than 180 days prior to the filing] **the HTY**.

(3) A calculation of the number of customers, by tariff subdivision, whose bills will be increased.

(4) A calculation of the total increases, in dollars, by tariff subdivision, projected to an annual basis.

(5) A calculation of the number of customers, by tariff subdivision, whose bills will be decreased.

(6) A calculation of the total decreases, in dollars, by tariff subdivision, projected to an annual basis.

(c) If a public utility files a tariff, revision or supplement which it is calculated will increase the bills of a customer or a group of customers by an amount, when projected to an annual basis, exceeding 3% of the operating revenues of the **public** utility— [subsection] § 53.52(b)(4) divided by the operating revenues of the **public** utility for [a 12-month period] **the HTY** [as defined in subsection (b)(2)]—or which it is calculated will increase the bills of 5% or more of the number of customers served by the **public** utility—[subsection] § 53.52(b)(3) divided by [subsection] § 53.52 (a)(2)—it shall submit to the Commission with the tariff, revision or supplement, in addition to the statements required by [subsection] §§ 53.52(a) and (b), all of the following information:

(1) A statement showing the **public** utility's calculation of the rate of return or operating ratio (if the **public** utility qualifies to use an operating ratio under § 53.54 (relating to small water and wastewater [utilities] **public utilities**)) earned in the [12-month period referred to in subsection (b)(2),] **HTY** and the anticipated rate of return or operating ratio to be earned when the tariff, revision or supplement becomes effective. The rate base used in this calculation shall be supported by summaries of original cost for the rate of return calculation. When an operating ratio is used in this calculation, it shall be supported by studies of margin above operation and maintenance expense plus depreciation as referred to in § 53.54(b)(2)(B).

(2) A detailed balance sheet of the **public** utility as of the close of the [period referred to in subsection (b)(2)] **HTY**.

(3) A summary, by detailed plant accounts, of the book value of the property of the **public** utility **[at the date of the balance sheet required by paragraph (2)] as of the close of the HTY.**

(4) A statement showing the amount of the depreciation reserve, at the **[date of the balance sheet required by paragraph (2)] close of the HTY,** applicable to the property, summarized as required by paragraph **(c)(3).**

(5) A statement of operating income, setting forth the operating revenues and expenses by detailed accounts **[for the 12-month period ending on the date of the balance sheet required by paragraph (2)] at the close of the HTY.**

(6) A brief description of a major change in the operating or financial condition of the **public** utility occurring between the **[date of the balance sheet required by paragraph (2)] close of the HTY** and the date of transmittal of the tariff, revision or supplement. As used in this paragraph, a major change is one which materially alters the operating or financial condition of the **public** utility **[from that] as** reflected in paragraphs (1)—(5).

(d) If a **public** utility renders more than one type of public service, such as electric and **natural or artificial** gas, information required by §§ 53.51—53.53 (relating to information furnished with the filing of rate changes), except **§ 53.52(c)(2),** relates solely to the kind of service to which the tariff or tariff supplement is applicable. In **§ 53.52(c)(2),** the book value of property used in furnishing each type of public service, as well as the depreciation reserve applicable to the property, shall be shown separately.

§ 53.53. Information to be furnished with proposed general rate increase filings in excess of \$1 million.

(a) When a public utility, other than a canal, turnpike, tunnel, bridge or wharf company, files a tariff or tariff supplement seeking a general rate increase within the meaning of 66 Pa.C.S. § 1308(d) **(relating to voluntary changes in rates),** and the general rate increase exceeds \$1 million in gross annual revenues, in addition to the data required by other provisions of this chapter, the tariff or tariff supplement shall be accompanied by responses to the data requests contained in the following exhibits which apply to the **public** utility types, **as** indicated.

(1) Exhibit A—**[Utilities except communications, electric, water and wastewater utilities.] Reserved.**

(2) Exhibit B—**[Communications] Telecommunications public** utilities.

(3) Exhibit C—[Electric utilities.] Reserved.

(4) Exhibit D—[Water and wastewater utilities.] Reserved.

(5) Exhibit E—Filing Requirements For Public Utilities Seeking A General Rate Increase Above \$1 Million In Annual Gross Revenues.

(a.1) In answering the data requests contained in Exhibit E, the public utility shall indicate the test year it has elected to use in discharging its burden of proof. If a public utility elects to use a FTY in discharging its burden of proof, it must provide the data and information requested for the HTY and the FTY but not for the FPFTY. If a public utility elects to use a FPFTY in discharging its burden of proof, it must provide the data and information requested for the HTY, the FTY and the FPFTY. In all cases, the public utility must also provide the data and information for any specified years preceding or following the applicable test year. If a public utility elects to use a FTY and a question in Exhibit E requests information for the year(s) immediately following the FPFTY, the public utility shall provide the information for the years immediately following the FTY.

(b) In providing responses to these data requests, if the requested data have been previously filed with the Commission, they may be incorporated by reference. [Also, the term “historic test year” as used in these exhibits refers to the test year chosen by the utility to support its filing, that is, presumably future test year data would be supplied in most cases. “Historic test year,” as referred to in Exhibit D, is defined as book figures for the base test year. The term “future test year,” as used in Exhibit D, refers to the adjusted historic test year for known and measurable changes 12 months beyond the book figures for the base year, or the utility’s final claimed supporting data.]

(c) [Initial utility direct testimony of a witness who shall testify in support of the utility’s position shall be provided as part of the filing materials. The testimony of the filing utility shall include a complete explanation and justification of claims which depart from the unadjusted test year results of operations, including the methodology and rationale. The testimony shall be accompanied by supporting worksheets, if necessary, and shall refer to supporting exhibits to which the testimony relates. The explanation and documentation of the proposed adjustments shall enable a reasonably informed party to determine how the amount was calculated and to understand why the amount is being claimed.] *Testimony.*

(1) Filed materials shall include the direct testimony of each public utility witness who is testifying in support of the public utility’s position. The public utility’s witness testimony shall be accompanied by supporting worksheets, if necessary, and shall refer to supporting exhibits to which the testimony relates.

(2) If adjustments from the test year are proposed, the public utility's witness testimony shall also include a complete explanation and justification of any claims which depart from the unadjusted test year results of operations, including the methodology and rationale. The public utility's witness testimony, explanation and documentation of the proposed adjustments shall enable a reasonably informed party to determine how the amount was calculated and to understand why the amount is being claimed.

EDITOR'S NOTE: THE COMMISSION IS PROPOSING TO AMEND 52 PA. CODE § 53.53 BY DELETING EXHIBITS A, C AND D, WHICH APPEAR AT 52 PA. CODE PAGES XXX TO XXX, SERIAL PAGES (000000) TO (000000), AND IS INQUIRING WHETHER THE PUBLIC UTILITIES IN EXHIBIT B SHOULD BE INCLUDED IN EXHIBIT E, AND IS PROPOSING TO ADD EXHIBIT E AS FOLLOWS:

- EXHIBIT A IS PROPOSED FOR DELETION BUT WILL NOT BE FORMATTED WITH BRACKETS AND RE-PRINTED TO BE SHOWN AS PROPOSED FOR DELETION.
- FOR EXHIBIT B, NO CHANGES ARE BEING PROPOSED AND ACCORDINGLY EXHIBIT B WILL NOT BE FORMATTED AND RE-PRINTED HERE.
- EXHIBIT C IS PROPOSED FOR DELETION BUT WILL NOT BE FORMATTED WITH BRACKETS AND RE-PRINTED TO BE SHOWN AS PROPOSED FOR DELETION.
- EXHIBIT D IS PROPOSED FOR DELETION BUT WILL NOT BE FORMATTED WITH BRACKETS AND RE-PRINTED TO BE SHOWN AS PROPOSED FOR DELETION.
- FOR THE NEWLY PROPOSED EXHIBIT E, SEE ANNEX B.

§ 53.54. Applicability; [Small] small water and small wastewater public utilities.

(a) *Procedures.*

(1) [**Whenever**] **When** a small water or **small** wastewater **public** utility desires to file a change in its tariff which increases annual revenues, it may [**advise the**

Commission of its intention in letter form and request the necessary Commission] obtain copies of the applicable rate forms from the Commission’s website. [When filing, the] The small water or small wastewater public utility shall set forth its proposed tariff changes and reasons for the changes, together with the [necessary] completed [Commission] forms. [If the utility is unable to fully complete the necessary forms, it may request assistance from the Commission staff.]

(2) [The small water utility or wastewater utility is required to fully cooperate with the Commission staff in providing the necessary information to complete these forms if the utility is unable to do so on its own.] Reserved.

(3) [Upon completion of the Commission forms in a manner satisfactory to the Commission staff, the] The small water or small wastewater public utility shall file a tariff or tariff supplement, [along with] including the completed forms if used, incorporating the proposed changes. The effective date of the proposed increase contained in the tariff or tariff supplements [may] shall not be less than 61 days after the filing, and customers shall be notified in accordance with § [53.45(a)(2)] 53.45(b)(2) (relating to notice of new tariffs and tariff changes).

(4) On the basis of the tariff or tariff supplement filing, the accompanying data and completed forms if used, the Commission staff [shall determine] may prepare a report that includes staff-determined tentative allowable revenues [and submit a report to the Commission]. If this report forms the basis of any action by the Commission, the report shall be made public as an attachment to a Commission order as described in § 53.54(a)(5).

(5) If the proposed revenues exceed the tentative allowable revenues, the Commission will [suspend] enter an order suspending the supplement but with a “condition subsequent” added, to the effect that if the small water or small wastewater public utility within a specified number of days files a superseding tariff or tariff supplement which produces the allowable revenues found by the staff and which has a rate structure satisfactory to the Commission, the suspension and investigation orders of the Commission shall be deemed inoperative and terminated. However, if the small water or small wastewater public utility fails to meet the “condition subsequent,” or if a customer files a formal complaint, the small water or small wastewater public utility may present the supporting data and the additional facts referred to in this section in formal proceedings. Additionally, in these formal proceedings, the small water or small wastewater public utility may agree to accept the most recent rate of return or operating ratio allowed a water or wastewater public utility by the Commission in a fully-litigated water or wastewater public utility rate case, but the agreement will not be binding on the Commission or any formal complainant.

(6) [A water or wastewater utility with a gross revenue of less than \$250,000 annually shall be considered a small water or wastewater utility for purposes of short-form rate filings.] Reserved.

(7) When a small water or small wastewater public utility's operating revenues increase in such amounts that the public utility no longer meets the criteria of the definition of a small water or small wastewater utility at § 53.51a (relating to definitions), the public utility shall continue to use previously Commission-approved EMOF, reserve account, and rates and reporting as required under this § 53.54 until the public utility is permitted by the Commission to change its EMOF or rates as a result of a base rate case filed with the Commission.

(b) *Operating ratio methodology.*

(1) This ratemaking method develops a revenue requirement where little or no rate base exists. The operating ratio at present rates shall be calculated as a ratio of operating expenses to operating revenues, where the numerator shall include operations and maintenance expense, annual depreciation on non-contributed facilities, amortization of multiyear expenses and applicable taxes and the denominator shall consist of the **small water or small wastewater public** utility's operating revenues at present rates.

(2) The appropriate target operating ratio in a particular case shall be determined by considering at least **all of** the following factors:

- (i) The operating ratios of comparable water or wastewater **public** utilities.
- (ii) Coverage of actual hypothetical, or both, interest expense.
- (iii) A comparison of the cost of service with the cost of service of similar companies which do not employ an operating ratio rate methodology.
- (iv) Current market conditions, including price inflation.
- (v) The quality of service and efficiency of operations.
- (vi) The rate case history.
- (vii) Whether there is any rate base and, if so, whether any depreciation expense is being claimed in the filing.
- (viii) An acquisition adjustment, if any.

(ix) Financial resources.

(x) The fairness of the resulting return.

(3) An increase or decrease in operating revenues shall be determined by dividing the **small water or small wastewater public** utility's reasonable and legitimate operating expenses by the target operating ratio determined in paragraph (2)[,] and subtracting that amount from the test period operating revenues.

(4) The operating ratio methodology shall be available to **small** water [**and**] **or small** wastewater **public** utilities [**with annual gross revenues (excluding current year Contributions In Aid of Construction (CIAC)) of less than \$250,000**]. If a **small** water or **small** wastewater **public** utility [**wishes**] **chooses** to employ an operating ratio methodology in calculating its rates, it shall make this request in the context of a rate case[,], and shall bear the burden of proving all necessary elements thereof.

(c) *Purchased water cost adjustment **or purchased wastewater conveyance and/or treatment cost adjustment**—sliding scale of rates.*

(1) A **small** water or **small wastewater public** utility [**with annual gross revenues of less than \$250,000,**] may establish a sliding scale of rates under 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments) upon 60 days' notice to customers[,], to recover the cost of purchased water **or purchased wastewater conveyance and/or treatment** obtained from municipal authorities or entities which are not affiliated interests as defined in 66 Pa.C.S. § 2101 (relating to the definition of affiliated interest). The purchased water cost adjustment **or purchased wastewater conveyance and/or treatment cost adjustment** filing shall be accompanied **[with a] by all of the following:**

(i) **A** tariff or tariff supplement which establishes the new rates to be placed into effect[.].

(ii) **A** calculation showing the application of the new rate schedule to the [**company's**] **small water or small wastewater public utility's** average level of customer usage[.].

(iii) **An** income statement demonstrating the effect of the tariff or tariff supplement upon the **small water or small wastewater public** utility's revenues for the period in which the proposed tariffs would be in effect[.].

(iv) **A** copy of the notice provided to customers [**and**].

(v) A verification that all customers have received notice of the proposed rate change.

(2) A purchased water cost adjustment **or purchased wastewater conveyance and/or treatment cost adjustment** shall be revised and refiled within 60 days of a decrease in purchased water costs **or purchased wastewater conveyance and/or treatment costs** [,] and shall be designed to pass through to customers the entire reduction in purchased water costs **or purchased wastewater conveyance and/or treatment costs** from the date the reduction becomes effective. A purchased water adjustment may be revised and refiled at any time after an increase in purchased water costs **or purchased wastewater conveyance and/or treatment costs** [,] and shall be designed to recover cost increases prospectively from the date of filing only.

(3) Within 30 days following the end of the calendar year, [every] **a small water or small wastewater** public utility utilizing a purchased water cost adjustment shall file the report prescribed by 66 Pa.C.S. § 1307(e) for the preceding 1-year period ending December 31st. These reports shall be reviewed by the Commission's Bureau of Audits, and, if no complaint or objection is raised within 45 days after filing, either by the Commission's Bureau of Audits or another person, the reports shall be deemed approved.

(d) *Emergency Maintenance and Operation Fund (EMOF).*

(1) *EMOF **burden of proof**.* [An expense claim in lieu of a cash working capital claim which may be allowable] A small water or a small wastewater public utility may submit a claim for an EMOF in anticipation of emergencies such as extraordinary repairs and maintenance, drought conditions, extraordinary environmental and physical damages to sources of supply, floods, storms, freeze-ups, or other health and welfare-threatening situations. The burden of demonstrating that actual or proposed disbursements from the [fund] **EMOF** are reasonable and in the public interest shall be borne by the **small water or small wastewater public** utility.

(2) *Methodology.* The [Fund] **EMOF** expense may not exceed 45 days of average operating expenses, excluding taxes and [depreciation] **non-cash operating expenses (for example, depreciation, amortization and bad debt expenses)**. If a claim for [Fund] **EMOF** expense is made, no additional claim for cash working capital shall be made or considered.

(3) *Procedures.* The amounts allocated for an EMOF shall be kept in a separate cash account, and disbursements shall be restricted to the uses in paragraph (1). The **small water or small wastewater public** utility shall report all disbursements from the [Fund] **EMOF** to the Commission within 10 days and shall provide a summary of each year's disbursements on its Annual Report. Disbursements from the [Fund] **EMOF** which are found by the Commission to have been made improperly, or in violation of a

statute, regulation or order of the Commission or other Commonwealth agency shall be returned to the account or be refunded to ratepayers as the Commission may direct. A person or individual who makes, authorizes or directs disbursement from **[a Fund] an EMOF** which is improper or in violation of any statute, regulation or order of the Commission shall be subject to 66 Pa.C.S. § 3301 **(relating to civil penalties for violations)** [or § 3301 **(relating to civil penalties for violations)**]; and criminal penalties for violations)] **and 66 Pa.C.S. § 3302 (relating to criminal penalties for violations).**

(4) *Availability.* The Commission may authorize funding a **[Fund] EMOF** for **a small water [and] or wastewater [utilities] public utility. [with annual gross revenues (excluding current year CIAC) of less than \$250,000.]**

(e) *Reserve account.*

(1) *Reserve account **burden of proof.*** [A segregated account to be funded by customer contributions collected through base rates for the purpose of making capital improvements to utility plant pursuant to a long-range plan developed in conjunction with the Commission or the Department of Environmental Protection, or as required to assure compliance with State or Federal safe drinking water statutes or regulations.] The burden of demonstrating that actual or proposed expenditures are reasonable and in the public interest shall be borne by the **small water or small wastewater public** utility.

(2) *Procedures.* The amounts to be allocated to the reserve account will be determined by the Commission after review of the **small water or small wastewater public** utility's proposed capital budget and the justification for that budget. Funds in the reserve account shall be kept in a separate interest[]-bearing cash account. Interest accrued shall be credited to the reserve account and shall become part of the corpus of the reserve account. Funds from the **reserve** account shall not be employed for a purpose other than those permitted under this section. Disbursements from the **[fund] reserve account** shall not be made without written authorization by the Commission upon petition, shall be restricted to the uses in subsection (d)(1), and shall be made in accordance with a capital budget submitted with the initial rate filing or as modified with the consent of the Commission. In proposing any modifications of the capital budget, the Commission or a party may solicit the advice or testimony of the Department of Environmental Protection. The **small water or small wastewater public** utility shall report all disbursements from the reserve account by written notice to the Commission and to other persons as the Commission may direct. Disbursements from the reserve account which are found by the Commission to have been made improperly[,] or in violation of any statute, regulation or order of the Commission or other Commonwealth agency shall be returned to the **reserve** account or be refunded to ratepayers as the Commission may direct. A person who makes, authorizes or directs a disbursement from

a reserve account without authorization by the Commission in accordance with these rules shall be subject to 66 Pa.C.S. § 3301 **[or] and** § 3302.

(3) *Accounting.* Plant capitalized by means of the reserve account shall be accounted for as a contribution in aid of construction.

(4) *Availability.* The Commission may authorize funding of a reserve account for **a small** water [and sewage utilities] **or small wastewater public utility.** [with annual gross revenues (excluding current year CIAC) of less than \$250,000.]

**§ 53.55. [Applicability; canal, turnpike, tunnel, bridge and wharf companies.]
Reserved.**

[(a) Whenever a canal, turnpike, tunnel, bridge or wharf company public utility files a tariff or tariff supplement which will increase or decrease the rates to any of its patrons, it shall submit to the Commission, with the tariff or tariff supplement, statements showing all of the following:

(1) The specific reasons for each such increase or decrease.

(2) The operating revenues of the utility for the latest 12-month period, the end of which shall not be more than 60 days prior to such filing.

(3) The estimated effect of each rate increase or decrease on the annual revenues of the utility.

(b) Whenever such a public utility files a tariff or tariff supplement which will increase its operating revenues for the latest 12-month period by more than 3% (subsection (a)(3) divided by subsection (a)(2)), it shall submit to the Commission with the tariff or tariff supplement, in addition to the statements required by subsection (a), all of the following information:

(1) A detailed balance sheet of the public utility as of the close of the period referred to in subsection (a)(2).

(2) A summary, by detailed plant accounts, of the book value of the property of the utility devoted to public service, as applicable, at the date of the balance sheet required by paragraph (1).

(3) A statement showing the amount of the depreciation reserve, at the date of the balance sheet required by paragraph (1), applicable to the property referred to in paragraph (2).

(4) A statement of operating income derived from public service, setting forth the operating revenues and expenses by detailed accounts, for the 12-month period covered by subsection (a)(2).] Reserved.

§ 53.56. Supporting data [for future test year] required if using a FTY.

(a) In discharging its burden of proof under [section] 66 Pa.C.S. § 315 [of the act] (relating to burden of proof), a public utility may submit and use data for a [future test year] FTY. The submission of information and data using a FTY shall be in addition to, and not in lieu of, other data or material required under this title, including the [submission] filing requirements for [an experienced 12-month test period] the HTY. [If a future test year is used, it shall be based on estimates for a period of 12 consecutive months, which begins on the day following the end of the required experienced 12-month period. The estimate for a future test year shall be of the same or similar type, quantum and nature as required to be submitted for an experienced test year and include the methodology, data and material used as the basis for the estimates.] Specifically for a general rate increase in excess of \$ 1 million in gross annual revenues, the public utility shall provide the information and data required under § 53.53 Exhibit E for the HTY. In all other cases, the public utility shall provide the information and data required for the HTY under § 53.52.

(a.1) If a FTY is used, it shall be based on fully substantiated estimates. The estimates for a FTY shall be of the same or similar type, quantum and nature as required to be submitted for a HTY and shall describe the methodology, data and material used as the basis for the estimates.

(b) If a public utility submits and uses data for a [future test year] FTY, it shall, during the course of the proceeding, [submit for] file and serve on the parties of record the [results of its] actual results [experience] experienced in the [future test year] FTY for each quarter starting with the day following the end of the [required experienced 12-month period] HTY. The results shall be submitted within 30 days of the end of the quarter. [or] If the results are not then available, the public utility shall file a status report indicating when the results will be available and file the results as soon thereafter as available.

(c) Following the completion of the rate proceeding, if the public utility's FTY data forms a substantive basis for the Commission's final rate determination, the public utility shall file with the Commission and serve on the parties of record in the same docketed proceeding in which the final rate determination was entered, the public utility's actual results experienced in the FTY. In this filing, the public utility shall provide appropriate data evidencing the accuracy of its estimates contained in the FTY. This filing shall be submitted within 30 days of the end of the last quarter of the FTY. If the results are not then available, the public utility shall file and serve

on the parties of record a status report indicating when the results will be available and file the results as soon thereafter as available.

§ 53.56a. Supporting data required if using a FPFTY.

(a) In discharging its burden of proof under 66 Pa.C.S. § 315 (relating to burden of proof), a public utility may submit and use data for a FPFTY. The submission of information and data using a FPFTY shall be in addition to, and not in lieu of, other data or material required under this title, including the filing requirements for a HTY and a FTY. Specifically for a general rate increase in excess of \$ 1 million in gross annual revenues, the public utility shall provide the information and data required under § 53.53 Exhibit E for the HTY and FTY. In all other cases, the public utility shall provide the information and data required for the HTY under § 53.52 and the information and data required for the FTY under § 53.56.

(b) If a FPFTY is used, it shall be based on fully substantiated estimates. The estimates for a FPFTY shall be of the same or similar type, quantum and nature as required to be submitted for a HTY and a FTY and describe the methodology, data and material used as the basis for the estimates.

(c) Following the completion of the rate proceeding, if the public utility's FPFTY data forms a substantive basis for the Commission's final rate determination, the public utility shall file with the Commission and serve on the parties of record in the same docketed proceeding in which the final rate determination was entered, the public utility's actual results experienced in the FPFTY. In this filing, the public utility shall provide appropriate data evidencing the accuracy of its estimates contained in the FPFTY. This filing shall be submitted within 30 days of the end of the last quarter of the FPFTY. If the results are not then available, the public utility shall file a status report indicating when the results will be available and file the results as soon thereafter as available.