WEST VIRGINIA CODE: §24-2H-6

§24-2H-6. Notice to distressed or failing utility and formal proceeding.

(a) A proceeding under this article may be initiated by the commission on its own motion, or by the staff of the commission, or any other person or entity having a legal interest in the financial, managerial, or operational condition of the utility, by filing a petition with the commission that includes all of the factual data supporting the justification for the utility to be considered as a distressed or failing utility that the petitioner has available to them at the time of filing: *Provided*, That high water loss or unaccounted for water shall not be considered the sole evidence of a distressed or failing utility. In any such petition, the utility shall be named as the respondent. The commission shall include, as additional parties, any capable proximate public and private utilities that may be able to acquire the utility.

(b) The commission shall hold evidentiary and public hearing(s) in a location in or within 25 miles of the utility's service area. The commission shall give reasonable notice of the time, place, and subject matter of the hearing as follows:

(1) Issuance of a press release;

(2) Written notice by certified mail or registered mail to:

(A) The utility;

(B) The Consumer Advocate Division;

(C) Capable proximate public or private utility or utilities that were made parties to the proceeding; and

(D) The county commission if the utility is a public service district; or

(E) The municipality if the utility is owned and operated by the municipality.

(3) The utility shall give notice to its customers of the time, place, and subject matter of the hearing either as a bill insert or printed on its monthly bill statement as ordered by the commission.

(c) The public hearing shall be conducted to receive public comments, including, but not limited to, comments regarding possible options available to bring the distressed or failing utility into compliance with appropriate statutory and regulatory standards concerning actual or imminent public health problems or unreasonable quality and reliability service standards. At the evidentiary hearing, the commission shall receive evidence to determine if the utility is a distressed or failing utility and whether a capable proximate utility should acquire the utility. If there is more than one capable proximate utility, then sufficient evidence should be presented to allow the commission to determine the appropriate capable

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proximate utility to acquire the distressed or failing utility.

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