

MEMORANDUM OF UNDERSTANDING

BETWEEN THE PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES
AND THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

This Memorandum of Understanding entered into this 2nd day of December, 1993, by and between the Pennsylvania Department of Environmental Resources (DER) and the Public Utility Commission (PUC), each agencies of the Commonwealth of Pennsylvania.

WHEREAS, Sections 501 and 502 of the Administrative Code of 1929 (71 P.S. §§ 181 and 182) require Commonwealth departments and agencies to coordinate their work and activities with other Commonwealth departments and agencies.

WHEREAS, both DER and the PUC are experiencing compliance problems with small, non-viable public water systems which provide drinking water to the public.

WHEREAS, it is DER's and the PUC's objective to work closely together and with other agencies and organizations involved in the provision of safe drinking water to encourage the restructuring of small water systems in order to substantially reduce the number of existing non-viable small water systems and ensure the long-term viability of all new drinking water systems.

WHEREAS, a viable water system is one which is self-sustaining, has the commitment and the financial, managerial and technical capability to reliably meet DER and PUC requirements on a long-term basis.

WHEREAS, both agencies affirm that they will cooperate fully in achieving the common goal of improving small water system viability.

NOW, THEREFORE, to accomplish the common goal of improving small water system viability, both agencies shall cooperatively undertake the following initiatives:

- (1) Develop regulations and policies to restrict the formation of new non-viable water systems.
- (2) Require the development and implementation of comprehensive water system facilities plans, management plans and financial plans for proposed new public water systems in order to promote sound business operations and the continuous provision of quality water service that meets Safe Drinking Water Act and Public Utility Code requirements.

- (3) Encourage comprehensive planning at the local, county and regional level to ensure water system viability and to address potentially non-viable water systems.
- (4) Foster and coordinate the restructuring of contiguous and non-contiguous public water systems, some of which are non-viable, to form viable water systems.
- (5) Provide and/or facilitate financial assistance and examine alternative rate-making policies for projects which comply with the intent of items (2), (3) and (4) above, and for projects which make systems viable through compliance with the intent of items (2), (3) and (4) above.
- (6) Develop safety net programs and procedures to deal with non-viable or abandoned public water systems.
- (7) Educate the public regarding public water system regulation, planning and viability issues, as well as the associated cost and the public health benefits derived.
- (8) Coordinate training sessions for agency staff relating to new regulations, requirements or policies on an as-needed basis.
- (9) Jointly participate in the PUC Problem Water Company Task Force and the DER Technical Assistance Center for Small Water Systems Board (TAC Board).
- (10) Identify policies and procedures that present barriers to small system restructuring and seek solutions to these institutional barriers.
- (11) Meet as necessary, but at least quarterly, to review progress toward improving small water system viability in Pennsylvania and to resolve any issues which have been identified by the staff of either agency.
- (12) For all water systems jointly regulated by DER and the PUC, both agencies shall:
 - (A) Coordinate on enforcement actions; and
 - (B) Exchange surveillance, compliance and enforcement information.

- (13) For all water systems jointly regulated by DER and the PUC, DER shall:
- (A) Coordinate with the PUC on all technical assistance provided through its Small Systems Outreach Program; and
 - (B) Coordinate with the PUC on all other small water system initiatives, including but not limited to, the Formation of Water Authorities Incentive Grant Program, the Water Supply Planning/Wellhead Protection Incentive Grant Program, the Small Water Systems Regionalization Grant Program and restructuring pilot studies.
- (14) For all water systems jointly regulated by DER and the PUC, the PUC shall:
- (A) Provide DER with notice of pending rate cases and other requested information on PUC regulated water suppliers;
 - (B) Provide DER with complaint referrals and information on compliance actions;
 - (C) Provide DER with information regarding the classification, or index of viability, of small water systems; and
 - (D) Refer small water system candidates for technical assistance and training to DER's Small Systems Outreach Program.

The parties to this Memorandum set forth the following as the terms and conditions of their understanding:

(1) This Memorandum is not intended to and does not create any contractual rights or obligations with respect to the signatory agencies or any other parties;

(2) Any dispute arising hereunder shall be submitted to the Office of General Counsel for final resolution; and

(3) Either party may terminate this Memorandum upon written notice to the other party.

The parties hereby acknowledge the foregoing as the terms and conditions of their understanding.

Department of Environmental Resources:

Arthur C. Pini 12/2/93
Secretary Date

Les Weeks 12/2/93
Chief Counsel Date

John M. Champ
Comptroller Date

Pennsylvania Public Utility Commission:

Dan R. Polch 12/2/93
Chairman Date

Joseph Rhoads, Jr. 12/2/93
Commissioner Date

Les Gubler 12/2/93
Commissioner Date

John Hanger 12/2/93
Commissioner Date

John M. [Signature] 12/2/93
Commissioner Date

John [Signature] 2/4/94
Chief Counsel Date

Office of General Counsel:

Joseph R. Prohaska 1-5-94
Deputy General Counsel Date