

MEMORANDUM OF UNDERSTANDING

BETWEEN THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY
AND THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

This Memorandum of Understanding entered into this 22nd day of July, 1997, by and between the Pennsylvania Infrastructure Investment Authority (PENNVEST) 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 PENNVEST and the PUC are concerned about management and operational issues with potentially non-viable public water and wastewater systems which provide drinking water or wastewater service to the public.

WHEREAS, it is PENNVEST'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 troubled water systems in order to substantially reduce the number of existing non-viable water systems and ensure the long-term viability of all new drinking water systems.

WHEREAS, a viable system is one which is self-sustaining, has the commitment and the financial, managerial and technical capability to reliably meet Department of Environmental Protection (DEP) and PUC requirements on a long-term basis.

WHEREAS, both agencies affirm that they will cooperate fully in achieving the common goal of improving water and wastewater system viability through various methods including regionalization and restructuring.

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

- (1) Develop joint policies to discourage the formation of new potentially non-viable water and wastewater systems and/or the continuation of existing non-viable water and wastewater systems. Use low interest loans, grants or other incentive based financing upon qualification where applicable.

- (2) Promote sound business operations and the continuous provision of quality water and wastewater service that meets the Safe Drinking Water Act, the requirements of the Department of Environmental Protection (DEP) and the Public Utility Code.
- (3) Encourage any existing system requesting PENNVEST funding to develop and implement comprehensive water and wastewater system facilities plans, management plans and financial plans in order to promote sound business operations and the continuous provision of quality service that meets the Safe Drinking Water Act, the requirements of the DEP and the Public Utility Code.
- (4) Participate in a joint application conference (DEP, PENNVEST, PUC) for prospective water and wastewater utilities to identify other options to the creation of any new system.
- (5) Encourage comprehensive planning at the local, county and regional levels to ensure water and wastewater system viability and to address potentially non-viable water and wastewater systems. Encourage use of the Business Plan as a viability assessment tool.
- (6) Foster and coordinate the restructuring of contiguous and non-contiguous public utility systems, some of which are non-viable, to form viable utility systems.
- (7) Provide and/or facilitate financial assistance and examine alternative rate-making and lending policies for projects which comply with the intent of items (2), (3), (4) and (5) above, and for projects which make systems viable through compliance with the intent of items (2), (3), (4) and (5) above.
- (8) Participate in the development of safety net programs and procedures to deal with non-viable or abandoned public utility systems. Implement solutions where applicable.
- (9) Educate the public, whenever possible, regarding public water and wastewater system regulation, planning and viability issues, as well as the associated cost and the public health benefits derived.
- (10) Jointly participate in the PUC "Problem Water Company Task Force", the "Friday Group", and the DEP Technical Assistance Center for Small Water Systems Board (TAC Board). Use DEP statewide mapping data base identifying locations of all water systems.

- (11) Identify policies and procedures that present barriers to small system restructuring and seek solutions to these institutional barriers.
- (12) Meet as often as necessary, but at least quarterly, to review progress toward improving water and wastewater system viability in Pennsylvania, to resolve any issues which have been identified by the staff of either agency, and to educate agency staff concerning new regulations, requirements or policies.
- (13) For all water and wastewater systems having or applying for financial assistance from PENNVEST and regulated by the PUC, both agencies shall:
 - (A) Continue to work together to develop strategies to address capacity development for troubled systems.
 - (B) Work together to facilitate and/or coordinate regional solutions to troubled system problems whenever possible.
 - (C) Explore all options to develop a more aggressive joint agency policy to collect delinquent loan payments of PUC regulated systems and re-examine PENNVEST collateral process options.
 - (D) Work to ensure that troubled investor owned utilities with projects that have significant impact on public health, public safety, compliance and the environment have access to funding through the PENNVEST program.
 - (E) Jointly, including DEP, attend any pre-filing meetings whenever necessary.
 - (F) Encourage all borrowers to file a "Self-Assessment Guide" with each loan application (PENNVEST) and applications for Certificates of Public Convenience (PUC). Jointly review each PUC regulated utility plan.
 - (G) Develop and implement cooperative strategies that will enable any interested and eligible system to access the application process.
 - (H) Work cooperatively to establish timely review of PUC regulated rate structures to meet scheduled PENNVEST debt service requirements.
- (14) For all water and wastewater systems having or applying for financial assistance from PENNVEST and regulated by the PUC, PENNVEST shall:

- (A) Inform PUC of all pre-filing conferences and all applications filed with PENNVEST.
 - (B) Make funds readily available to troubled investor owned utilities following the established PENNVEST rating criteria for obtaining assistance and financing priorities contained in the Act, and the requirements of the federal and state revolving loan fund for drinking water systems.
 - (C) Make loan funds available to capable and proximate viable systems: if they take over an identified proximate troubled system, or agree to acquire and improve a non-viable system that would otherwise qualify for funding.
 - (D) Use available utility mapping data bases to identify systems that should be considered in regionalization projects.
 - (E) Provide the PUC with a list of all projects per PENNVEST board meeting and the final action on each project.
 - (F) Provide the PUC with a copy of the General Assembly Annual Report of PENNVEST yearly.
 - (G) Make available all loan information pertaining to any PUC regulated utility for PUC audit purposes.
 - (H) Institute an aggressive loan collection policy to insure the continued availability of PENNVEST funds.
 - (I) Participate in ongoing initiatives, such as the "Problem Water Company Task Force" and the "Friday Group," to provide the lender's perspective on issues that relate to the investor owned water and wastewater utilities.
- (15) For all water and wastewater systems having or applying for financial assistance from PENNVEST and regulated by PUC, the PUC shall:
- (A) Institute an aggressive policy to support PENNVEST in collection of loans from PUC regulated water and wastewater utilities by developing an annual review process of all PUC regulated systems with PENNVEST financing.
 - (B) Work toward regional solutions, wherever possible, when attempting to solve troubled system problems.

- (C) Require a business plan from all applicants requesting new Certificates of Public Convenience.
- (D) Approve the abandonment of service for a PUC regulated utility with an outstanding PENNVEST loan balance, only upon considering the status of the outstanding PENNVEST debt and/or satisfaction of said debt.
- (E) Use existing PUC enforcement policies, and/or develop new enforcement strategies, if necessary, to ensure that the rate increases approved by the PUC to pay for the PENNVEST debt service is used for the intended purpose.
- (F) When requested, provide PENNVEST with recommendations on investor owned utilities' ability to meet PUC standards as they relate to a system's financial, managerial and technical capacity.
- (G) When requested, participate in loan repayment meetings and support PENNVEST efforts to ensure repayment of funds loaned to PUC regulated utilities.
- (H) Notify PENNVEST on a timely basis of any known outstanding technical, managerial or financial capacity issues that relate to systems that may be, or have been, funded through PENNVEST.
- (I) Provide PENNVEST with a comprehensive list, by county, of all PUC regulated water and wastewater utilities in Pennsylvania, updated periodically.
- (J) Identify for PENNVEST any PUC regulated system project that may need assistance to fund capital improvements including: utility name, address, contact person, phone number and the type of improvement anticipated and related construction cost estimate if available.

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.

Pennsylvania Infrastructure
Investment Authority:

Paul M. Mautz
Executive Director

John W. Robertson 6/16/97
Chief Counsel Date

Debra Chernick 7/18/97
Comptroller Date

Pennsylvania Public Utility
Commission:

[Signature]
Chairman Date

Robert K. Bloom 6-12-97
Vice Chairman Date

John Hanger June 16, 1997
Commissioner Date

Norman Wood 16 June 97
Commissioner Date

[Signature] 16 June 97
Commissioner Date

[Signature] 6/16/97
Chief Counsel Date

Debra Chernick 7/18/97
Comptroller Date

Office of General Counsel:

Donna Weiser 6-25-97
Deputy General Counsel Date