




ERIE COUNTY WATER AUTHORITY INTEROFFICE MEMORANDUM

November 7, 2018

To: Commissioners Schad, Carney and Jones

From: Robert J. Lichtenthal, Jr., Deputy Director 

Subject: Proposed Revisions to the Authority's Tariff effective January 1, 2019

The Erie County Water Authority is a Public Benefit Corporation formed in 1949 to provide a potable water supply to the residents of Erie County. The Authority was created by an Act of the New York State Legislature, codified in Sections 1050 through 1073 of Title 3 (the "Erie County Water Authority Act") of Article 5 of the Public Authorities Law of the State of New York (as amended), to, among other things, finance, construct, operate and maintain a water supply and distribution system to benefit the residents of the County of Erie, New York. The Authority became operational in 1953.

Section 1054 (10) gives ECWA the authority to do the following:

To make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, *rules for the sale of water and the collection of rents and charges therefor*. Such rules may provide for the discontinuance or disconnection of the supply of water for non payment of water rents, rates or charges. The authority shall not discontinue or disconnect the supply of water except in the manner and upon such notice as is required of a water-works corporation pursuant to subdivision three-a of section eighty-nine-b of the public service law. A copy of such rules and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the clerk of the county and thereafter published once in two newspapers having a general circulation in the county. Violation of such rules shall be a misdemeanor punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both. Exclusive jurisdiction is hereby conferred upon the local criminal courts of the county, outside the city of Buffalo, which have trial jurisdiction, to hear and determine, subject to the provisions of the criminal procedure law, any violation of this title.

These "rules for the sale of water and the collection of rents and charges therefor" is commonly referred to as the Authority's Tariff, similar to those used by traditional investor-owned utilities.

On an ongoing basis staff reviews the Tariff and its relevance with respect to the changing environment in which the Authority operates. From time to time recommendations are made to amend the Tariff to keep it current and to allow for more streamlined, effective and efficient operation of the Authority. Along with the changes

that will need to be made to the Tariff with respect to the rates the Authority will need to charge to support the 2019 budget plan, there are a number of areas of the Tariff that I and staff from the Finance and Legal Departments are proposing amendments to and recommend the Commissioner's to adopt the changes as proposed.

1. Section 2.00, Paragraph 2.11(H) and 2.11(I): A change in the order of these two sections is recommended. The language of the current "H" will become "I" and the language of the current "I" will become "H". This recommendation is for improved logical flow in reading and applying this section. There is no substantive change.
2. Section 2.00, Paragraph 2.11(I) (3): This paragraph will add the phrase "or pay more than the actual cost of said water". This language needs to be added to prevent one community from effectively blocking the Authority's ability to adequately and equitably serve a neighboring community. This paragraph will then be relabeled "H" as noted in #1 above.
3. Section 10.00, Paragraph 10.18(A): Add language to clarify the amount of the Maintenance Bond by adding the word "actual". New language is also added to clearly define the obligation of the Builder-Contractor-Developer to maintain and/or repair the facilities installed throughout a warranty period.
4. Section 10.00, Paragraph 10.18(B): A change is recommended to better define terms and to clearly define the obligation of the Builder-Contractor-Developer to ensure that there are no liens or other encumbrances on any facilities being transferred to the Authority.
5. Section 10.00, Paragraph 10.19: A change is recommended to revise the basis for the Maintenance and Payment Bonds from "estimated" to "actual" and to provide the Authority with the ability to review and verify the construction costs.

Within Section 14.00 of the Tariff there are other fees and charges for various items. At this time Staff is not recommending any modifications to these items. However, an internal review of Paragraph 14.16, Water Service Connection Fees, has begun. As the Small Services Contracts have recently been authorized to be put out to bid, the pricing that the Authority receives when the bids are returned will become an important part of the review. If there is a potential need to revise the charge it will be brought to the Board at that time.

If you have any questions please feel free to ask. The plan is to include these changes with the potential rate modifications that will be necessary to support the 2019 budget at a future meeting. The recommendation is that these changes be adopted within a time frame that they would be effective January 1, 2019.