



TO: Chairman and Board Members
THRU: Mark Foree, General Manager
FROM: John Erwin, Director of Natural Resources
Scott Estes, Director of Engineering
Kim Mazeris, Director of Customer Relations
DATE: January 5, 2012
SUBJECT: **Rule Amendment, Adoption: Second Reading, Public Hearing and possible adoption of Resolution No. 181: A Resolution to amend TMWA Rules 1, 2, 3, 4, 5 and 7**

RECOMMENDATION

Staff recommends the Board adopt by resolution the revised Rules 1, 2, 3, 4, 5, and 7 as set forth in Exhibit 1 to the attached Resolution to be effective the start-of-business day January 19, 2012.

DISCUSSION

Staff continually monitors the effectiveness of its rules to endeavor to streamline and improve clarity of the language of the rules, to make content relevant to today's operating environment, and to implement applicable cost recovery mechanisms. The attachment to Resolution 182 contains the final version of the revised rules.

This is the second reading of staff proposed revisions to TMWA's rules, the first reading was heard November 16, 2011 with no public comment at that time. A brief synopsis of each of the rules with proposed revisions is presented here.

Rule 1: Applicable for all users, this rule provides definitions of terms utilized throughout the body of TMWA's Rules and Rate Schedules.

Clarifying and simplifying definitions of Modified Service, On-Peak, Off-Peak and Winter Usage to be consistent with the use of the terms in TMWA Rate Schedules.

Rule 2: For existing customers, describes the technical specifications under which water may be delivered by TMWA including water quality. General conditions for delivery of water, waste of water, temporary service, customer damage to TMWA facilities and theft of water are addressed in this rule.

Clarifying watering day schedule language.

Rule 3: Describes the application process for person(s) desiring to receive water from TMWA, including establishment of credit associated with application. For customers who already receive water from TMWA, this rule describes the procedure for a customer to discontinue receiving water, the rights of TMWA to terminate delivery of water to a customer, and the circumstances and procedure under which water may be restored to a customer.

Clarifying language regarding the calculation of deposits used for the establishment of customer's credit.

Rule 4: Includes information to be furnished by TMWA regarding bills for payment for the delivery of water to a customer, procedure for estimation of bills and proration of bills. This rule also describes the customer's responsibilities for payment of bills, including when a bill is due. Procedure for adjustments to bills, disputed bills, and testing of meters is described.

Revision adds language to apply credit balances resulting from customer over payment of bills to be applied to customer account or refunded upon termination of service.

Rule 5: Rule applies to development of land requiring new or modified water service, this rule specifies the application process and responsibilities of the applicant and of TMWA for costs and facilities.

Clarifying existing language regarding the refund or non-refund of applicant paid fees, and the creation and subsequent use of credits when an applicant's project is canceled and fees are not refunded due to applicant missed deadlines or size of fees paid.

Rule 7: Rule applies to the acquisition of water resources by TMWA, the dedication of water resources to TMWA by applicant, the issuance of Will-Serve Commitment letters, and creation/management of water resource credits upon cancellation or termination of applicant's project.

The revisions to this rule appear extensive however, the proposed revisions reorder existing language to clarify the conditions in which water resource credits are created and their subsequent management by TMWA for the benefit of the applicant. Revisions also remove existing due diligence fees for research and verification of water rights' title and place those fees with all other business fees contained in Rate Schedule Business Services Fees (BSF).

Since filing of the public notice on November 4, 2011, no comments, written or otherwise, have been submitted to staff for the Board's further consideration on these proposed rule changes.

TRUCKEE MEADOWS WATER AUTHORITY

RESOLUTION NO. 181

A RESOLUTION ADOPTING REVISIONS TO TRUCKEE MEADOWS WATER AUTHORITY’S RULE 1 “DEFINITIONS”, 2 “GENERAL CONDITIONS FOR THE DELVIERY OF WATER”, 3 “APPLICATION FOR, AND DISCONTINUANCE, TERMINATION, AND RESTORATION OF THE DELIVERY OF WATER”, 4 “PAYMENT FOR THE DELIVERY OF WATER”, 5 “WATER SYSTEM FACILITIES”, AND 7 “REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS”

WHEREAS, upon its formation, the Truckee Meadows Water Authority (“the Authority”) adopted Rules of Service on March 28, 2001, and such Rules have been modified and revised subsequent to the formation of TMWA;

WHEREAS, the Authority’s Board desires to amend the Authority’s Rule 1, 2, 3, 4, 5 and 7 to clarify the application of said Rules;

WHEREAS, after conducting a review and public hearings of its Rules, the Authority has revised and amended the Rules to meet the needs of its business environment by eliminating obsolete language and ensuring consistency between the Rules; and

WHEREAS, the revised Rules set forth in Exhibit 1 attached hereto and incorporated herein are appropriate and justified;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE TRUCKEE MEADOWS WATER AUTHORITY DOES RESOLVE:

The revised Rules 1, 2, 3, 4, 5, and 7 as set forth in Exhibit 1 are approved and adopted effective the start-of-business day January 19, 2012.

Upon motion of _____, seconded by _____, the foregoing Resolution was passed and adopted this 18th day of January, 2012, by the following vote of the Board:

Ayes: _____

Nays: _____

Abstain: _____ Absent: _____

Approved this 18th day of January, 2012

Chairman

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STATE OF NEVADA,)
 : ss.
COUNTY OF WASHOE.)

On this 18th day of January, 2012, Mike Carrigan, Chairman of the Board of Truckee Meadows Water Authority, personally appeared before me, a Notary Public in and for said County and State, and acknowledged that he executed the above instrument freely and voluntarily and for the purposes therein mentioned.

Notary Public

Truckee Meadows Water Authority

RULE 1

DEFINITIONS

Gallon	The volume of water which occupies 231 cubic inches.
GPM	Gallons per minute.
House Piping	All piping and fittings installed within the structure up to and including the last fitting inside or outside the walls of the structure.
Industrial Service	See Service Classification.
Irrigation Service	See Service Classification.
Law	A rule, or rules established and enforced by Federal, State, or Local Government.
Local Government	Means a city or county.
Maximum Day Demand	Average rate of flow of water needed for the highest one-day use of water for the year as determined by the Authority.
Maximum Day Demand Plus Fire Demand	Demand resulting from fire flow simultaneously occurring with Maximum Day Demand.
Meter	Any device owned by the Authority that is used for the purpose of measuring the quantity of water delivered.
Meter Facilities	Authority-owned materials including the pipe, setter, fittings, concrete box or vault, lids, and valves necessary to house a Meter.
Metered Service	Service for which charges are computed on the basis of measured quantities of water.
Minimum Charge	The minimum amount, as specified by applicable Rate Schedule, that Customer shall pay for delivery of water.
Modified Service	A change in or alteration to (1) the quantity of water delivered to a Service Property, (2) the capacity to deliver water to a Service Property, or (3) Service and Meter Facilities or Fire Facilities used to deliver water to a Service Property resulting from construction of a work of improvement on the Service Property.
NAC	Nevada Administrative Code.
NRS	Nevada Revised Statutes.

Added: 03/23/01 Amended: 11/01/02; 06/18/03; 10/01/03; 05/21/09; 01/19/12

Truckee Meadows Water Authority

RULE 1

DEFINITIONS

Non- Potable	Water that is unfit to drink.
Non-Potable Service	See Service Classification.
Peak Hour Demand	Average amount of water needed during the highest one-hour period occurring during the Maximum Day Demand as determined by the Authority.
Off-Peak Period	The period October 1 through May 31.
On-Peak Period	The period June 1 through September 30.
Permanent Service	Service which is of a permanent and established character. The use of water may be continuous, intermittent, or seasonal in nature.
Person	Any individual, business entity, governmental agency, or other organization.
Potable	Water that is fit to drink, as recognized by Federal, State, and local applicable regulatory bodies.
Premise(s)	The physical location of the Service Connection and its associated street address used for billing purposes.
PSI ("psi")	The gage pressure in pounds per square inch of the water in the Authority's main or Service Pipe as measured by a calibrated pressure gage acceptable to the Authority. Gage pressure is the pressure of the water in excess of the prevailing atmospheric pressure and is sometimes referred to as "psig".
Private Fire Protection Service	See Service Classification.
Public Fire Protection Service	See Service Classification.
Rate Schedule(s)	Description of all effective rates, charges, and fees collectively of the Authority.
Reclaimed Water	Water which has undergone treatment at a sewer treatment plant to the satisfaction of Federal, State and local applicable regulatory bodies and can be used for Non-Potable applications.

Added: 03/23/01 Amended: 11/01/02; 06/18/03; 10/01/03; 05/21/09; 01/19/12

Truckee Meadows Water Authority

RULE 1

DEFINITIONS

Unmetered Service	Service installed at Service Property without a Meter.
Unsatisfactory Credit	Any history of payment that does not meet the Satisfactory Credit requirements as set forth by the Authority.
Will-Serve Commitment	A letter from the Authority addressed to the appropriate governing agency which states that Authority has sufficient water resources to provide the requested delivery of water pursuant to the Authority's Rules and Rate Schedules and that the project to be served is located within Authority's approved retail or Wholesale Service boundaries.
Winter Usage	The water delivered by the Authority to a Premise as measured by the Meter for the Billing Periods of December, January, February, and March.
Yard Pipe (or Line)	All piping between the House Piping and the Service Connection.

Added: 03/01/08 Amended: 01/19/2012

Truckee Meadows Water Authority

RULE 2

GENERAL CONDITIONS FOR THE DELIVERY OF WATER

3. Customer shall be solely responsible for the transmission and delivery of water over or through Customer's pipes, Meter(s), and equipment, regardless of the place where such may be metered. Authority shall have no responsibility for any loss or damage to Customer's receiving facilities.

E. Water Waste Enforcement

1. **Water Waste.** As a condition of service, Customers of the Authority must use water delivered through the Authority's system in a manner that promotes efficiency and avoids waste. All Customers of the Authority are required to comply with all applicable water efficiency codes. It is a violation of the Authority's Rules for any Customer to waste water as defined in this Rule. For the purposes of this Rule, the use, consumption or expenditure of water under any of the following conditions shall constitute the waste of water within the meaning of this Rule.
 - a. Wasting of water refers to any act of a Customer involving the Excessive use, application, or expenditure of water supplied.
 - b. Use of water through any Service or Meter Facility when the Customer or his agent responsible for the use of such water has been given notice consistent with Rule 3 to repair one or more leaks in any piping system or any plumbing fixture connected directly or indirectly to such Service and Meter Facility and such Customer or his agent or representative has failed to complete such repairs.
 - c. The washing of automobiles, trucks, trailers or any other type of mobile equipment, except: (1) in washing facilities operating with a water recycling system or using a non-potable water source, (2) where required by health and sanitary regulations, or (3) in conjunction with a hose to which a self-closing nozzle is attached.
 - d. The Irrigation of lawns as follows:
 - (1) Premises with even addresses – Tuesday, Thursday and Saturday.
 - (2) Premises with odd addresses – Wednesday, Friday, and Sunday.
 - (3) After Labor Day holiday weekend through Memorial Day holiday weekend – any time of day.
 - (4) After the Memorial Day holiday weekend through the Labor Day holiday weekend – any time of day except between the hours of 12:00 p.m. and 6:00 p.m.
 - (5) Nothing contained in this Rule shall prohibit:
 - (a) The Hand Watering of vegetable or flower gardens, lawns, trees and shrubs in a non-wasteful manner.
 - (b) The watering of newly seeded lawns or sod, lawns in public parks, playgrounds, athletic fields, common areas, and parkways on any day and at any time of day if done in a non-wasteful manner, subject to a variance granted annually by the Authority.

Added: 10/01/03 Amended: 03/17/04; 01/20/10; 01/19/12

Truckee Meadows Water Authority

RULE 3

APPLICATION FOR, AND DISCONTINUANCE, TERMINATION, AND RESTORATION OF THE DELIVERY OF WATER

B. Establishment of Credit

The Authority shall require a Customer to establish credit before it delivers water. Credit may be established by a Customer by any one of the following:

1. Having been a Customer of the Authority within the two (2) years preceding the date of application for the delivery of water for a similar Service Classification and having established Satisfactory Credit.
2. Having been a Customer of another utility within the two (2) years preceding the date of application for the delivery of water, and having made Timely Payment of each bill issued to him during any consecutive twelve (12) months within the two (2) years preceding the date of application for the delivery of water.
3. Receiving benefits from a retirement plan or the Social Security Administration provided the Customer is a residential Customer and maintains Satisfactory Credit.
4. Submitting payment of a cash Deposit to ensure the payment of a bill issued to him for delivery of water.
 - a. The cash Deposit for each service required by the Authority shall be the greater of \$100.00 or the amount calculated based on one of the following three conditions:
 - (1) Customer Establishing Credit at a Residential Premise:
 - (a) 150% of the previous twelve (12) months average use for the delivery of water multiplied by the applicable rate; or
 - (b) If the Premise does not have twelve (12) months usage history, 150% of the twelve (12) months average use for a comparable Service Classification multiplied by the applicable rate will be used to calculate the Deposit.
 - (2) Customer Establishing Credit at a Non-Residential Premise:
 - (a) 200% of the previous twelve (12) months average use for the delivery of water multiplied by the applicable rate; or
 - (b) If the Premise does not have twelve (12) months usage history, 200% of the twelve (12) months average use for a comparable Service Classification multiplied by the applicable rate will be used to calculate the Deposit.

Added: 10/01/03 Amended: 03/01/08; 05/21/09; 01/19/12

Truckee Meadows Water Authority

RULE 4

PAYMENT FOR THE DELIVERY OF WATER

3. Proration of Bills. The monthly charges applicable to opening periods, closing bills, and bills rendered for periods corresponding to less than twenty seven (27) Days or more than thirty three (33) Days for monthly Billing Periods will be computed as follows: The amount of the charge will be prorated on the basis of the ratio of the number of Days in the period to thirty (30) Days -- the average Billing Period. Charges based on the measured quantity of usage shall then be added to such prorated amounts.

B. Payment of Bills

Payment of bills for delivery of water may be made to the Authority by any one of the following methods:

- a. Depositing payment with the U.S. Postal Service for delivery to the Authority by first class mail.
- b. Making payment at the business office of the Authority.
- c. Making payment to any agent authorized by the Authority to accept payment.
- d. Making payment directly from a bank account via the Authority's electronic funds transfer program.

C. Credit for Over Payment of Bills

Any credit balance resulting from a Customer's over payment of a bill may be applied by the Authority to the Customer's bill(s) for subsequent month(s). Any credit balance which remains on the Customer's account following the discontinuance or termination of the delivery of water will be refunded to the Customer.

D. Due Date

A bill for delivery of water is due and payable beginning on its date of issuance. Each bill is deemed issued by the Authority once the total charges due for a Billing Period are posted to the Customer's account(s). Bills will be delivered to Customers by first class mail or by electronic notification of the bill via the Internet. All bills must be paid within fifteen (15) Days of their issuance, and any bill not paid by such date will be deemed past due. Payment of a bill is timely if the payment is received not more than four (4) Days after the past due date.

1. If payment in full has not been received on any outstanding balances and all notices have been issued pursuant to Rule 3, the Customer's Service(s) is eligible for Termination of Delivery of Water pursuant to Rule 3.

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

B. Responsibilities and Requirements for Installation of Water System Facilities

1. Application and Processing.

- a. Applicant shall apply for new Service or Modified Service by submitting a complete Application with the Authority. An Application shall be deemed complete if the Authority determines it includes sufficient information to allow Authority to perform system planning and develop preliminary facility plans, prepare sketches, and estimates of Applicant's costs to be advanced to Authority for Authority's business services.
- b. The Application must be accompanied by appropriate fees for business services as provided in Rate Schedule BSF. All Rate Schedule BSF fees paid at the time of Application are non-refundable, except as otherwise provided in Section B.6.c of this Rule 5.
- c. The Authority shall determine, in its sole discretion, whether any changes to a project or Application after submission of a completed Application (changes may include but are not limited to type of development, number of units or parcels, change in size of units or parcels, change in grading, change in street layout, fire flow required, or estimated demand(s)) changes the estimated demands of the project or requires submission of a New Application.
- d. An Application shall automatically be deemed canceled and rejected, and shall be null and void without further notice from the Authority:
 - i. on the date the Applicant notifies the Authority the project is canceled;
 - ii. on the date approval for the project by the applicable governing body expires or is terminated; or
 - iii. if a Water Service Agreement has not been executed by Applicant and Authority within twelve (12) months of the date the completed Application was first received by Authority.
- e. The Authority, in its sole discretion, may approve an extension of time for a pending application beyond its scheduled cancellation date under the following conditions:
 - i. the Applicant requests the extension of time in writing no later than 30 days prior to the pending cancellation date;
 - ii. there are no changes planned, proposed, or subsequently made to the project; and
 - iii. the Water Service Agreement for the project is subject to different terms, conditions, fees, and/or facility charges than those offered in a prior Water Service Agreement for the project.

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 01/19/12

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

- b. A Water Service Agreement shall automatically terminate and be null and void without further notice from the Authority (i) on the date and terms stated within the Water Service Agreement; (ii) on the date Applicant provides written notice to the Authority that Applicant's project is canceled; (iii) if Applicant does not commence construction on water facilities required by this Rule and/or the Water Service Agreement within 12 months of the effective date of the Water Service Agreement or within such other deadline contained in the Water Service Agreement; or (iv) on the date approval for the project by the applicable governing body expires or is terminated. Upon the termination of a Water Service Agreement, the Application for the project for new Service or Modified Service shall automatically be deemed rejected or canceled.
- (1) If a rejected or canceled Application for the project is re-submitted, a new Water Service Agreement must be entered into by the Authority and Applicant for the project, which agreement may include different terms and conditions, including different fees and facility charges, than those set forth in the prior terminated Water Service Agreement.
- c. If a Water Service Agreement has been executed by Applicant and Authority, and Applicant has paid all required charges in accordance with Schedule WSF and the Water Service Agreement is subsequently terminated, the Applicant shall be entitled to a cash refund or a dollar credit, as set forth below:
- (1) If the total Schedule WSF charges paid by the Applicant pursuant to the terminated Water Service Agreement are \$50,000 or less and Applicant submits a written request for a refund to the Authority within 60 days after the execution of the Water Service Agreement, Authority will refund the Applicant or Applicant's designated successor or assign such Schedule WSF charges paid by the Applicant, without interest.
- (2) If the total Schedule WSF charges paid by the Applicant pursuant to the terminated Water Service Agreement are more than \$50,000, Authority shall issue a dollar credit to the Applicant, or Applicant's designated successor or assign, equal to the Schedule WSF charges paid by Applicant, without interest. A dollar credit issued pursuant to this subsection can be applied to Schedule WSF charges applicable to other Water Service Agreement(s) for Application(s) for new Service and Modified Service within the Authority's retail service area as directed in writing by the Applicant, or Applicant's designated successor or assign. In no event can any dollar credit issued by Authority be converted to a cash refund.
- (3) If construction has not commenced on water facilities under the terminated Water Service Agreement, Authority will refund to an Applicant or Applicant's designated successor or assign, all Schedule BSF charges paid by the Applicant

Added: 03/01/08 Amended: 05/21/09; 05/21/10; 01/20/11; 01/19/12

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

pursuant to the terminated Water Service Agreement provided in no event shall Schedule BSF charges be refunded if the Authority has otherwise performed any services in connection with such fees.

- (4) Except as provided in this subsection B.6.c, all Schedule BSF and Schedule WSF charges paid by an Applicant are non-refundable.
- d. Water Service Agreements, or any rights arising in connection therewith as provided in this Rule, may only be assigned by written notice of assignment provided to the Authority by the Applicant(s) executing the Water Service Agreement. For purposes of Applicant reimbursements for oversizing under this Rule, assignments shall not be effective until thirty (30) days after receipt by the Authority of the written notice of assignment. The Authority is not responsible for errors associated with making, or the inability to make, Applicant reimbursements under this Rule due to any dissolution of any joint venture, partnership, corporation or other entity, or where rights have not been properly assigned in accordance with this Rule.
- e. The Authority shall maintain detailed records of actual costs and provide all Applicants with an opportunity for review of such records, for a period of time in accordance with Authority's records retention schedules.

C. General Provisions

1. Construction Prior to Establishing Final Grade or Alignment. Where either final grade or the alignment of roads, streets and alleys, in the proximity of proposed facilities, have not been established, the Authority will require that the Applicant deposit cash or post an acceptable surety bond, in the amount of the Authority's estimated cost of relocation or reconstruction of the facilities thirty (30) Days prior to construction. Upon completion of any such relocation or reconstruction, the Applicant shall replace said surety bond with cash in the amount of the Authority's actual cost incurred in making the relocation or reconstruction.

Where the Applicant has deposited cash to cover such relocation or reconstruction, that deposit shall be adjusted by the Applicant or the Authority to reflect the Authority's actual cost incurred for the relocation or reconstruction. Applicant's responsibility for relocation expires at such time that final grade is established and it is demonstrated, to the satisfaction of the Authority, that the Authority's water Facilities are installed in accordance with the Authority's Standards.

Added: 05/21/09 Amended: 05/21/10; 01/19/12

Truckee Meadows Water Authority

RULE 7

REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS

A. Applicability

This Rule applies to and sets forth the responsibilities and requirements of a Person applying to the Authority for a Will-Serve Commitment letter from the Authority for the delivery of water to a new Service or Modified Service.

B. Definitions

1. Terms not defined in this Section shall have the meaning set forth in Rule 1.
2. As used in this Rule:
 - a. "Applicant" shall mean the Person applying for a Will-Serve Commitment letter.
 - b. "Authority Water Resources" shall mean water resources owned by the Authority and previously held within the Will-Serve Commitment Inventory.
 - c. "Dedicated Water Resource" shall mean water rights, or water rights and necessary facilities accepted for dedication by an Applicant prior to the issuance of a Will-Serve Commitment letter, in order to meet the actual Demand of a new Service or Modified Service.
 - d. "Demand" shall mean the estimated annual quantity of water to be delivered to a Service Property, generally expressed in acre-feet per annum or acre-feet per year.
 - e. "Historic Demand" shall mean the estimated annual quantity of water, as determined by Authority, historically delivered by Authority to a Service Property.
 - f. "Permitted Water Right" shall mean a water right for which the Authority has been issued a permit by the Nevada Division of Water Resources to use for municipal purposes in the Authority's place of use and to be diverted at the Authority's points of diversion.
 - g. "Will-Serve Inventory" shall mean the inventory of uncommitted water resources owned by the Authority which may be made available to Applicants to support an Applicant's Will-Serve Commitment pursuant to this Rule.

Added: 03/23/01 Amended: 10/01/03; 10/19/05; 01/19/12

Truckee Meadows Water Authority

RULE 7

REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS

4. The Applicant may purchase a Will-Serve Commitment letter sufficient to meet the Demand for the Applicant's Project from the Authority only if the following conditions are met:
 - a. No water rights are appurtenant to the location at which new Service or Modified Service is being sought; or
 - b. The Applicant does not have any water rights banked with or previously conveyed to the Authority or other Local Government which remain uncommitted to a Project but could be available for Applicant's Project; or
 - c. The Applicant does not own any water rights that could be dedicated to the Authority pursuant to Section F of this Rule; and
 - d. The Authority has a sufficient inventory of water rights in the Will-Serve Inventory to meet the Demand for the Applicant's Project.

Where the Applicant is a Local Government or State agency seeking New or Modified Service, the Applicant may be granted an exemption to Section G.4(c) if Applicant's Water Resource(s) are committed to current or future water quality purposes, return flow requirements, effluent reuse, recharge, drought reserve, protection against demand fluctuations or such other appropriate water resource management or public use purposes approved by the Board.

Where the Applicant is a Wholesale Service applying for New or Modified Service on behalf of the owner of a retail project within the Wholesale Service's retail service area, Section G.4 shall apply to the owner of the of retail project as if the owner of the retail project were the Applicant.

H. Fees and Issuance of Will-Serve Commitment Letter

1. Fees Related to Dedication of Water Rights. Prior to the acceptance of Dedicated Water Resources to the Authority, Applicants will pay fees provided in Rate Schedule BSF to research and verify title, and the Applicant shall provide the Authority all documents and maps evidencing the water rights, including but not limited to (i) Nevada Division of Water Resources Application to Change and supporting Map and/or Report of Conveyance, and Abstract of Title; and (ii) copies of permits and/or certificates issued by the Nevada Division of Water Resources evidencing water rights, and Applicant is responsible for the costs as determined by the Nevada Division of Water Resources for the submission of a Report of Conveyance, Abstract of Title and all related documents as part of the application process with the Nevada Division of Water Resources.

Added: 03/23/01 Amended: 10/01/03; 10/19/05; 06/21/06; 01/19/12

Truckee Meadows Water Authority

RULE 7

REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS

2. Fees for Issuance of Will-Serve Commitment letter. In addition to any other fees in this Rule, Applicants shall pay fees provided in Rate Schedule BSF to prepare the documents necessary to issue each Will-Serve Commitment letter.
3. Water Meter Retrofit Fund Fees. Applicants relying on any water right other than the conversion of domestic well, imported water sources or groundwater rights for a Will-Serve Commitment letter will pay to the Authority's water meter retrofit fund the sum of \$1,830.00 per AF of Demand related to the new Service or Modified Service prior to the issuance of the Will-Serve Commitment letter.
4. The Applicant is responsible for delivery of the Authority-issued Will-Serve Commitment letter and accompanying documentation to appropriate government entities.
5. Banking Water Rights. The Authority may, in its sole discretion, allow any Person to bank water rights with the Authority for future use by any Person. In the event an individual, any joint venture, partnership, corporation or other entity desires to dedicate water rights to the Authority for the Authority to hold or bank for the future use by the Applicant, or Applicant's designated successor, for a Will-Serve Commitment letter, the Applicant, or Applicant's designated successor, will pay applicable fees set forth in this Section and execute a banking agreement with the Authority. The Applicant, or Applicant's designated successor, shall be billed by the Authority for any fees such as Extension of Time associated with maintaining banked water rights in good standing with the Nevada Division of Water Resources.
6. Issuance of Will-Serve Commitment Letter After Dedication of Water Rights. After the Applicant has satisfied the requirements of Section F and paid the fees under Section H, and the Authority has accepted the Dedicated Water Resource, the Authority shall:
 - a. Prepare the necessary documentation to deed the Dedicated Water Resource to the Authority or Local Government;
 - b. Record such deed at the County Recorder; and
 - c. Upon execution of such deed and acceptance of the Dedicated Water Resource by the Authority, issue a Will-Serve Commitment letter to the Applicant for new Service or Modified Service at the location requested by Applicant.

Added: 10/01/03 Amended: 03/17/04; 10/19/05; 06/21/06; 03/01/08; 01/19/12

Truckee Meadows Water Authority

RULE 7

REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS

7. Issuance of Will-Serve Commitment Letter After Purchase. After an Applicant has satisfied the requirements of Section G, paid the price determined in Section G, and paid the fees under Section H, the Authority will issue a Will-Serve Commitment letter to the Applicant for new Service or Modified Service at the location requested by the Applicant.
8. Obligation to Serve. Until such time as the Authority has issued a Will-Serve Commitment letter to an Applicant and facilities are installed pursuant to the Authority's rules to delivery water to the Project, the Authority is not obligated to provide the new Service or Modified Service.
9. Will-Serve Commitments Appurtenance. Will-Serve Commitment letters issued by the Authority and Historic Demand are appurtenant to the Service Property.

I. Project Cancellation, Expiration or Termination and Adjustments

1. A Will-Serve Commitment letter is automatically revoked and shall be null and void without further notice from the Authority on the date (i) Applicant provides written notice to the Authority that Applicant's project is canceled; or (ii) approval for Applicant's project expires or is terminated by the applicable governing body. In such event and upon written request of the Applicant:
 - a. The Authority shall reconvey to the Applicant any water rights dedicated by the Applicant pursuant to Section F of this Rule for the revoked Will-Serve Commitment Letter; or
 - b. In the Authority's sole discretion, the Authority may hold or bank Dedicated Water Resources or Authority Water Resources in connection with the revoked Will-Serve Commitment letter for the use by the Applicant, or Applicant's designated successor or assign, for a new Will-Serve Commitment letter for another project(s); or
 - c. The Authority shall refund to the Applicant, without interest, the full amount paid to the Authority by the Applicant under Sections H.3 and G as applicable provided (i) the Applicant submits a written request for such a refund to the Authority within ninety (90) days of the issuance of the Will-Serve Commitment letter, or (ii) the total amount eligible for refund is \$100,000 or less. In the event the Authority grants a refund under this subsection, the Authority will return the Authority Water Resources supporting the revoked Will-Serve Commitment Letter to the Will-Serve Inventory; or

Added: 10/01/03 Amended: 03/17/04; 10/19/05; 06/21/06; 03/01/08; 01/19/12

Truckee Meadows Water Authority

RULE 7

REQUIREMENTS FOR WILL-SERVE COMMITMENT LETTERS

- d. The Authority shall credit (credit in acre feet) the Applicant, or Applicant's designated successor or assign, the amount of Water Resources purchased by Applicant under Section G, which credit can be applied to Application(s) for new Service and Modified Service within the Authority's retail service area as directed in writing by the Applicant, or Applicant's designated successor or assign.
2. Will-Serve Commitment Adjustments and Issuance of Water Resource Credits. Adjustments to the quantity of water resources committed to a Service Property may be made pursuant to this Section where:
 - a. An existing building(s) or facility(ies) has been demolished or removed and service to the Service Property is disconnected. A water resource credit (credited in acre-feet) will be issued to the owner of the Service Property under this Section 1.2.a equal to the Demand in the Will-Serve Commitment letter or Historic Demand, if:
 - (1) The owner of the Service Property on which service is to be disconnected records a deed restriction with the County Recorder in form acceptable to Authority declaring that there is no entitlement to water resources and/or water service from the Authority benefiting such parcel(s) at the Service Property; and
 - (2) Service at the Service Property is retired in accordance with Rule 6.

After completion of the requirements of Section 1.2.a(1) and 1.2.a(2) the Authority's commitment to deliver water to the Service Property shall be deemed revoked and any Applicant for the delivery of water to the Service Property must submit an Application for new Service and satisfy all requirements in this Rule, including supplying water resources pursuant to Section F or G prior to issuance of a Will-Serve Commitment letter for the new Service at the Service Property.
 - b. The projected Demand of a new Service or Modified Service at a Service Property is less than the Demand in the Will-Serve Commitment letter or the Historic Demand at the Service Property, in which event a water resource credit (credited in acre-feet) will be issued to the owner of the Service Property under this Section 1.2.b equal to the difference. If the projected Demand of the new Service or Modified Service is greater than the Demand in the Will-Serve Commitment letter or the Historic Demand at the Service Property, no adjustment will be made or water resource credit issued, and the Applicant must dedicate sufficient water resources to the Authority in accordance with Sections F or G of this Rule equal to the water resource deficit prior to the issuance of a new or revised Will-Serve Commitment letter for any new Service or Modified Service at the Service Property.

Added: 10/01/03 Amended: 03/17/04; 10/19/05; 06/21/06; 03/01/08; 01/19/12

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- c. The owner(s) of a Service Property requests an adjustment of Demand based on historic delivery of water at the Service Property and:
- (1) The Service Property is not located on a parcel created by subdivision plat (or map) pursuant to NRS Chapter 278;
 - (2) The Demand being adjusted is not a Residential Service;
 - (3) The person(s) requesting the adjustment owns all real property at the Service Property benefitted by the quantity of water committed to the Service Property; and
 - (4) There is at least three (3) or more years of continuous metered water use data or other historic Demand data as determined by the Authority to establish the historic delivery of water for the Service Property being adjusted.

If the Service Property satisfies the requirements of Section 1.2.c and Demand in the Will-Serve Commitment letter or Historic Demand is greater than the historic delivery of water calculated under subsection 1.2.c(4) above, Authority shall issue a water resource credit (credited in acre-feet) to the owner of the Service Property equal to the difference and issue a revised Will-Serve Commitment letter to the Service Property. If the Demand in the Will-Serve Commitment letter or Historic Demand for the Service Property is less than the historic delivery of water calculated under subsection 1.2.c(4) above, the owner of the Service Property shall dedicate sufficient water resources to the Authority in accordance with Sections F or G of this Rule equal to the water resource deficit prior to issuance of a Will-Serve Commitment for any new Service or Modified Service at the Service Property.

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3. Water resources supporting any water resource credits issued by the Authority to the owner of a Service Property are owned by the Authority and shall be held for the benefit of the owner(s) of the Service Property, or his designated successor or assign subject to the terms and conditions set forth in Authority's water resource banking agreement. Water resource credits:
 - a. Shall be issued in acre feet and shall state quantity in terms of Demand;
 - b. May be used in connection with any application for new Service or Modified Service under this Rule;
 - c. Must be used in the Authority's retail service areas;
 - d. Must be used in areas where sewer flows are returned to the Truckee River, unless additional resources are supplied pursuant to Sections F or G for sufficient for return flows;
 - e. Shall be issued to the owner of the Service Property;
 - f. May be sold, assigned or transferred to other parties upon notification to and written approval from the Authority and only to the extent the water resource credits exceed one acre foot. The Authority may assist with such sales on request.

J. General Provisions

1. Nothing in this Rule shall be construed to usurp the planning functions of the Local Governments. Applicants shall be deemed in compliance with the provisions of this Rule if the Applicant causes the Local Government(s) to sell or lease to the Authority, pursuant to such Local Government(s) Ordinances, sufficient resources from resources held by the Cities or County, if such procedure is required by local Ordinance.