

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

A. Applicability

1. This Rule defines the responsibilities of the Authority and of the Applicant for the cost and requirements for construction, extension and/or modification of Water System Facilities required to provide new Service or Modified Service to the Applicant's project(s) within the Authority's approved Service Area. No Service Property shall be eligible for water service, nor shall Authority have any obligation to provide water service to any Service Property, if the Service Property is located outside Authority's Service Area.
2. Annexation of Service Property. Authority shall have no obligation to annex or provide water service to any Service Property located outside Authority's Service Area. An Applicant seeking new Service to a Service Property located outside the Authority's Service Area shall submit an application for annexation to the Authority. The Authority may, in its sole discretion, deny the application or agree to annex the Service Property into the Authority's Service Area on such terms and conditions determined by Authority and set forth in an Annexation Agreement. An Applicant approved for new Service to a Service Property located outside the Authority's Service Area must satisfy both the terms and conditions of the Annexation Agreement and terms and conditions applicable to new Service set forth in Authority's Rules, including this Rule.
3. Definitions. Terms not defined in this section shall have the meaning set forth in Rule 1. As used in this Rule:
 - a. "Applicant" shall mean the legal owner of the Service Property to receive New or Modified Water Service which results in the need for addition to or modification of Water System Facilities.
 - b. "Applicant Installed Facilities" shall mean those Water System Facilities or portions of Water System Facilities required or approved by the Authority for installation by Applicants, and include Project Mains and associated Facilities, Meters or Services.
 - c. "Authority Installed Facilities" shall mean those Water System Facilities or portions of Water System Facilities installed and constructed by the Authority or its agent, and including, but not limited to, supply/treatment improvements, feeder mains, pressure regulating stations, system inerties, new pump stations or rebuilds of pump stations, new standby power generators, storage facilities, and retrofit additions.
 - d. "Business Services" shall mean the cost of services provided by the Authority for the benefit of the Applicant associated with providing new Service or Modified Service and may include, but are not limited to, system planning; engineering design; permitting; property, right-of-way, or easement acquisition; design review; material acquisition; bidding and contracting; construction; construction management; inspection; and administrative overheads and financing costs.
 - e. "Charge Area" shall mean the geographically defined boundaries where Area Facility Unit Costs have been established by the Authority.

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

- f. “Deficit Demand” shall have the meaning ascribed to such term in Rule 7.
- g. “Effective Date of the Water Service Agreement” shall mean the earlier of (i) the date stated in a Water Service Agreement that it is to become effective or (ii) the date the Water Service Agreement is executed by both the Applicant and the Authority.
- h. “Facilities Application” shall mean the Applicant’s request for Water System Facilities submitted on such form prepared by or revised by the Authority from time to time.
- i. “Feeder Mains” shall mean on-site or off-site mains and associated Facilities required to provide the requested service, which will also provide excess capacity to serve additional future Customers or redundant mains necessary to comply with local, State or Federal regulations.
- j. “Oversizing Costs” shall mean the difference between the cost of the Oversized Facilities and the cost of Water System Facilities necessary to serve Applicant’s project, as estimated by the Authority. Authority’s responsibility for Oversized Facilities costs shall not be allocated based on Applicant’s percentage utilization of the water system facility’s capacity.
- j. “Oversized Facilities” shall mean those portions of Water System Facilities required by Authority of greater capacity or size than would be necessary to provide the service requested by the Applicant.
- k. “Project Mains” shall mean on-site or off-site mains and associated Facilities required to provide the requested service that do not provide excess capacity to also serve additional future Customers. The capacity of a main and whether excess capacity is available is solely determined by the Authority.
- l. “Water Service Agreement” shall mean the agreement entered into between the Applicant and the Authority that defines the terms and conditions under which the Authority shall provide the requested water service.
- m. “Water System Facilities” shall mean all on-site and off-site improvements required to provide new Service or Modified Service to a Service Property or Applicant’s project and as necessary to develop, treat, store, transport and distribute water to the Applicant’s project, and any additional facilities specified or required by local, State, or Federal regulations, or stipulated in an Annexation Agreement, whether Applicant Installed Facilities or Authority Installed Facilities, and shall include, but not be limited to, supply/treatment facilities, water mains and associated facilities, storage tanks, pressure regulating stations, pump stations, standby power generators and any other ancillary equipment or controls necessary to integrate new water Facilities or to connect to, expand, relocate, remove, retire or alter existing water Facilities.

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 not subject to different terms, conditions, - fees, and/or facility charges than those offered in a prior Water Service Agreement for the project.
 - f. An Applicant may resubmit a rejected or canceled Application to the Authority for reconsideration at any time; provided, however, the resubmission of a canceled Application will be treated as a new Application and must comply with all conditions in these Rules applicable to a new Application, including payment of appropriate fees.

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

2. Applicant Installed Facilities.

- a. Applicant will be responsible for all engineering design, permitting, property acquisition, right-of-way, material acquisition, bidding and contracting, and construction of Applicant Installed Facilities. Authority will, at Applicant's expense, perform planning, administer the Water Service Agreement described in Section B.6 of this Rule, review and approve designs of Applicant Installed Facilities, inspect and approve Applicant Installed Facilities during construction, and, to the extent necessary to acquire access rights for Applicant Installed Facilities, review and process right-of-way and property documents.
- b. The Authority will, at its sole discretion, determine the feasibility of proposed or alternate routes for Facilities and for establishing capacity requirements.
- c. Feeder Mains, Project Mains, storage facilities, and pressure regulating stations may be designated as Applicant Installed Facilities at the sole discretion of the Authority.
- d. Applicant Installed Facilities work must be conducted in coordination with the Authority to permit the Authority to perform its related work efficiently with minimum delay.
- e. Applicant must comply with the following conditions to install Applicant Installed Facilities.
 - (1) All design, plans, and specifications shall be prepared by the Applicant at the Applicant's expense and must be approved by the Authority before construction can commence. If the Authority, in its sole discretion, determines that engineering design is required for the water facilities, Applicant's designs shall be prepared by or under the direction of and wet-stamped by a Professional Engineer registered in the State of Nevada in accordance with Nevada Law, including NAC 625.611.
 - (2) All phases of the installation of Applicant Installed Facilities are subject to inspection and approval by the Authority, at Applicant's expense. Applicant shall require Applicant's contractor to conduct a pre-construction meeting to be attended, at a minimum, by the Applicant's design engineer, contractor's superintendent and Authority's inspector.
 - (3) The Applicant's contractor must hold a valid Contractor's License of a proper classification ("A" General Engineering, or subclassification "A-19" specialty contractor's license) issued by the State of Nevada Contractor's Board in accordance with NRS 624. The contractor must furnish sufficient experienced and qualified personnel and must demonstrate availability of adequate reliable equipment to handle and install Applicant Installed Facilities in a workmanlike manner in accordance with industry standards, TMWA standards and manufacturer's recommendations.

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

- (4) The Applicant and/or Applicant's contractor must comply with the Authority's Standards, and any additional specified construction standards and/or governmental requirements (i.e., OSHA, City, County, State, etc.) that may apply in all phases of the Applicant Installed Facilities installation. Applicant shall complete all work in accordance with the approved drawings as supplemented by standard details and notes, Authority's Standards, this Rule 5 and the terms and conditions of the Water Service Agreement.
- (5) The Applicant must provide all material in accordance with the Authority's Standards or specifications. All material provided will be subject to acceptance by the Authority, based on inspections by the Authority at Applicant's expense.
- (6) The Applicant and/or Applicant's contractor must guarantee all material and workmanship against defects for one (1) year following final acceptance of Applicant Installed Facilities by the Authority. This guarantee shall be made a part of the Water Service Agreement.
- ~~(7)~~ (7) If Applicant's contractor, for any reason, ceases work on Applicant Installed Facilities prior to acceptance by Authority, the Applicant or Applicant's contractor must immediately notify the Authority of the work cessation and the reasons therefore, and must notify the Authority at least two (2) working Days prior to recommencing work, unless otherwise agreed to by the Authority. The Authority may require a pre-construction meeting per Section B.2.e.(2) of this Rule prior to the recommencement of work.
- (8) Applicant must enter into a Water Service Agreement with the Authority as described in Section B.6 of this Rule.
- (9) The Applicant shall install all Oversized Facilities specified by the Authority subject to the reimbursement provisions of this Rule.
- (10) Applicant shall, at Applicant's sole cost and, in a manner as directed by Authority, remove and retire all existing active or inactive water facilities that serve, were capable of serving or did serve the Applicant's Service Property, including those facilities discovered during construction that were not shown on the approved drawings.
- ~~(1011)~~ (1011) The Applicant shall commence installation of Applicant Installed Facilities within the earlier of (i) 12 months after the effective date of Authority's approval of Applicant's water project plan or executed Water Service Agreement; or (ii) the time schedule set forth in a Water Service Agreement.

Applicant shall apply best commercial efforts to complete construction of the water facilities no later than 12 months from the commencement date, or in accordance with specific required completion dates as established by the Authority.

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

If Applicant does not complete construction within the time periods described above, Authority, at its sole discretion, may consider and may grant extensions in 1 year increments if Applicant submits a written request for an extension to the Authority at least 30 days prior to the potential expiration and termination of the Water Service Agreement and Applicant: (a) demonstrates work is being performed on the water project; (b) submits a schedule of work and periodic updates on the progress of the water project; (c)-demonstrates good cause for such extension. Such request for extension must clearly describe project status and the reasons for delay.

~~(412)~~ The delivery of water will not be provided to a Service Property or Applicant's project by the Authority until the necessary Water System Facilities are complete, tested, accepted and placed into service, and applicable Schedule WSF Charges shall be paid as determined by the Authority in Section B.4.

3. Authority Installed Facilities.

- a. Unless otherwise expressly noted in this Rule or specifically provided for in the Water Service Agreement, all Water System Facilities shall be deemed Authority Installed Facilities.
- b. Applicants shall prepay to Authority the Authority's estimated cost of preparing final design documents for Authority Installed Facilities, including detailed plans, specifications and cost estimates as a condition of Authority beginning such services. In addition, Applicant shall comply with the following requirements for Authority Installed Facilities.
 - (1) Applicant shall provide the Authority with maps and drawings, in an electronic format and to suitable scale satisfactory to the Authority, showing final street and lot layouts and final grading plans indicating existing and final elevation contours of the area to be developed.
 - (2) Applicant shall provide Authority with a proposed construction schedule and service date. The Authority will develop a tentative project schedule in consultation with Applicant, accounting for anticipated permitting, land and/or right-of-way acquisition, material acquisition, design and construction time frames.
 - (3) Applicant shall furnish any required property ownership, property description, plot plan or record of survey information concerning the area to be served under the provisions of this Rule. Such information shall be furnished in a format acceptable to the Authority.
 - (4) Applicant shall furnish any other relevant information that the Authority may require to complete Authority's design or construction of Authority Installed Facilities. If changes are made subsequent to the presentation of the information described in Section B.3.b and these changes require additional expense to the Authority in

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

revising plans, specifications and cost estimates, this additional expense shall be advanced by the Applicant.

- c. Applicant shall submit an advance payment, equal to the Authority's estimated cost to provide the requested service, including permitting, land and right-of-way acquisition, material and equipment acquisition(s), bidding and contracting, construction, inspection and administration, thirty (30) Days prior to the start of construction of any Authority Installed Facilities. Scheduling of the construction start date is contingent upon Authority's receipt of Applicant advance payments and all project approvals, required easements and project permits.
- d. The Authority may require an acceptable bond, letter of credit or guarantee related to the required cash advance whenever installation of Authority Installed Facilities requires firm scheduling by the Authority more than thirty (30) Days prior to construction. Bonds, letters of credit or guarantees provided for this purpose will be replaced with cash thirty (30) Days prior to construction, except that Applicant will advance the cost, in cash for special materials not normally stocked by the Authority in the quantities needed, as a condition of Authority ordering such materials.
- e. In those instances where more than one Applicant is to be served jointly from the same extension or alteration, the total advance required from such Applicants shall be apportioned among the Applicants as provided in the Water Service Agreement. The total advance shall equal the Authority's total cost for providing service to all such Applicants.

4. Facilities and Cost Responsibilities.

- a. All Applicant Installed Facilities and Authority Installed Facilities shall be and remain the sole property of the Authority. Size, type, quality of material and location of Water System Facilities installed or constructed shall be selected by the Authority in accordance with the Authority's standards of service, engineering and construction practices and in compliance with local, State and Federal regulations. At its option, the Authority will retain ownership of existing Facilities that are removed in connection with new Facilities installation; otherwise, such removed facilities will become the property of the Applicant. No salvage value will be assigned or granted to the Applicant for existing facilities that are removed.
- b. The Authority is not responsible for damages, including consequential damages, delay or other inconveniences resulting from delays in design, planning, review, approval or construction of Water System Facilities caused by circumstances beyond the control of the Authority.
- c. Applicant cost responsibilities for Water System Facilities installed pursuant to this Rule shall include, but are not limited to, all regulatory, environmental and other permit fees, engineering, permitting, land acquisition(s), right-of-way, inspection, material, labor, transportation, cost for removal or retirement of existing Facilities, associated Authority overheads, financing charges and other charges which are related to the

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

Facilities, including any modification or improvement of existing Facilities, or installation of temporary Facilities required to provide the requested service.

d. Applicant shall be responsible for the actual cost of all Water System Facilities identified by the Authority, and/or required by local, State or Federal regulations, as required to provide the requested new Service or Modified Service, including, without limitation, costs for:

(1) Project Mains. The Applicant is solely responsible for the cost of Project Mains as required by the Authority to provide the necessary capacity for the requested New or Modified Service. Applicant will be responsible for the cost of a Project Main of such capacity and along such a route as would be adequate to provide the required service, provide for the logical and orderly expansion of the water system to serve future customers, or meet requirements of applicable regulations, as determined by Authority.

(2) New Pump Station Facilities

(3) Service and Meter Facilities (per Rule 6).

(4) Supply and Treatment Facility Charge. Applicants shall be responsible for a Supply and Treatment Facility Charge, the amount of which will be based on the following calculation:

Supply and Treatment Facility Charge = Demand multiplied by Supply and Treatment Facility Unit Cost

Where:

Supply and Treatment Facility Charge = Applicant's share of costs to add new or modify existing supply and treatment facilities.

Demand = Excluding fire flow, Applicant's Maximum Day Demand plus any Deficit Demand at the Service Property in GPM as determined by the Authority.

Supply and Treatment Facility Unit Cost = unit cost in dollars per GPM of Maximum Day Demand, representing the cost to construct and finance supply/treatment improvements identified by the Authority as set forth in Rate Schedule WSF.

(5) Storage Facilities. Where, as solely determined by the Authority, storage is required that benefits or serves primarily the Applicant's Project, the Applicant will be solely responsible for financing, constructing and dedicating to the Authority the storage facilities required to serve the Applicant's Project. The Authority, at its option, may require Applicant to oversize said storage facilities; in such case, Authority shall be responsible for Oversizing Costs as provided in Section B.5 of this Rule 5.

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

- (i) If not required to construct and dedicate storage facilities, the Applicant shall pay the Authority a Storage Facility Charge, the amount of which will be based on the following calculation:

Storage Facility Charge = Demand multiplied by Storage Facility Unit Cost

Where:

Storage Facility Charge = Applicant's share of storage costs including operating, fire and emergency storage components.

Demand = Excluding fire flow, Applicant's Maximum Day Demand plus any Deficit Demand at the Service Property in GPM as determined by Authority.

Storage Facility Unit Cost = unit cost in dollars per GPM of Maximum Day Demand, representing the cost to construct and finance storage improvements identified by Authority as set forth in Rate Schedule WSF.

- (6) Area Facility Charge. The Applicant is solely responsible for the cost of Feeder Mains and other area specific facilities required by the Authority to provide the necessary capacity for the requested New or Modified Service. The Authority, at its option, may require Applicant to oversize said Feeder Main or area specific facilities; in such case, Authority shall be responsible for Oversizing Costs as provided in Section B.5 of this Rule 5. Where a Service Property is not located within an established Charge Area or where the Area Facility Unit Cost for that Charge Area has not been established, applicable Area Facility Unit Costs shall be determined by Authority on a case by case basis and may include charges for on-site and off-site improvements, including Oversizing Costs, to integrate new Water System Facilities or to connect to, expand, relocate or alter existing water Facilities, determined by the Authority as necessary to facilitate annexation of the Service Property into the Authority's Service Area and/or development of the Charge Area or Charge Area Unit Cost to be established, as set forth in the Annexation Agreement or Water Service Agreement between Applicant and Authority.

- (i) If Applicant's Project is determined to be located in a Charge Area as set forth in Rate Schedule WSF, the Applicant shall pay the Authority an Area Facility Charge, the amount of which will be based on the following calculation:

Area Facility Charge = Demand multiplied by the Area Facility Unit Cost

Where:

Area Facility Charge = Applicant's share of Feeder Main and area specific facility costs.

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

Demand = Excluding fire flow, Applicant's Maximum Day Demand plus any Deficit Demand at the Service Property in GPM as determined by Authority.

Area Facility Unit Cost = unit cost in dollars per GPM of Maximum Day Demand, representing the cost to construct and finance Feeder Main and area specific facility improvements for the appropriate Charge Area as identified by Authority as set forth in Rate Schedule WSF.

- (7) Pressure Regulator Stations and System Intertie Facilities. If applicable, these facilities may include Meter Facilities. Applicant is solely responsible for the actual cost of these Facilities as required to serve the Applicant's project. Capacity requirements are solely determined by the Authority.
 - (8) Standby Power Generator Additions or Retrofits. Applicant is solely responsible for the actual cost of standby power generation additions or retrofits required to provide additional reliable, normal, or fire flow capacity, or provide alternative pumping capacity in compliance with local, State and Federal regulations.
 - (9) Pump Station Additions or Rebuilds. Applicant is solely responsible for the actual cost of pump station additions or rebuilds required to provide additional reliable, normal, or fire flow capacity, or provide alternative pumping capacity or power sources in compliance with local, State and Federal regulations. Pump station additions or rebuilds and/or standby power installations are not eligible for reimbursement or participation payments from subsequent development.
- e. For projects with total costs as estimated by the Authority of twenty-five thousand dollars (\$25,000.00) or greater, the Applicant shall advance the estimated project costs and, following acceptance and completion of such projects by the Authority, Applicant payments will be adjusted to reflect the actual cost of the project and the Applicant will be billed or reimbursed as applicable. On projects with total estimated costs as estimated by the Authority less than twenty-five thousand dollars (\$25,000.00) the Applicant's cost responsibilities shall be the estimated cost of the project.
 - f. Participation Payments. An Applicant whose Project(s) require or will utilize a portion of previously constructed Oversized Facilities shall pay Authority a participation payment based on a proration of the Applicant's project(s)' demand relative to the total capacity of previously installed Oversized Facilities or other appropriate proration as determined by the Authority.
 - g. Payment of Schedule WSF Charges. Applicant shall be required to pay Schedule WSF charges for all Project Demand and Deficit Demand as determined by the Authority required to provide new Service or Modified Service to the Applicant's project(s) within the Authority's approved Service Area. Schedule WSF Charges shall be paid at the time the Water Service Agreement is executed, except as provided in subsection (1) below:

Added: 03/23/01 Amended: 10/01/03; 03/01/05; 03/01/08; 05/21/09; 05/21/10; 10/15/14; 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

(1) Deferral of Payment of Schedule WSF Charges. An Applicant for a single family residential subdivision Project ~~or a New or Modified Service for a single family residence~~ may, at Applicant's election, defer payment of Schedule WSF Charges otherwise due pursuant to this Rule until a date no later than ten (10) days prior to the date a meter is to be installed for the corresponding service. Notwithstanding the foregoing, all Schedule WSF Charges applicable to the Project shall be due and paid as provided in the Water Service Agreement, but no later than two (2) years after the first Certificate of Occupancy is issued in the Project. If Applicant elects to defer Schedule WSF Charges under this subsection (1), Applicant will pay the Schedule WSF Charges in effect at the time of payment, together with all finance carrying and administration costs imposed by Authority in connection with such deferral. Applicant's Project shall not be eligible for water service, and Authority shall have no obligation to set water meters or provide water service to any portion of Applicant's Project until Schedule WSF Charges have been paid in accordance with this Rule. Schedule WSF Charges may not be deferred for any Project which includes commercial, condominium or multi-family/multi-unit dwelling uses.

h. Demand and Deficit Demand Appurtenance. Upon payment of WSF charges paid by an Applicant, the corresponding Demand and Deficit Demand shall be appurtenant to the Service Property for which they were paid and are held for the benefit of the Service Property owner, except: (i) where forfeited as a result of removal or retirement of Service(s); (ii) with respect to refunds issued pursuant to Section B.6.d.(1); or (iii) with respect to credits issued pursuant to Section B.6.d.(2).

5. Oversizing Facilities and Oversizing Reimbursements

- a. The Authority may, at its option, require installation of Oversized Facilities, the cost of which Applicant shall be required to advance.
- b. The cost of pump station additions or rebuilds (to existing pump station facilities), standby power installations, pressure regulating stations, system interties, Project Mains and Feeder Mains sized to meet the requirements of the Applicant's project are not eligible for reimbursement or participation payments.
- c. Oversizing Reimbursements. Except as otherwise provided in an Annexation Agreement, an applicant is eligible for future reimbursement of Oversizing Costs subject to the following:

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

- (1) For all Oversized Facilities other than new pump stations, the Authority shall reimburse the Applicant an amount equal to the Authority's estimate of Applicant's Oversizing Costs for Oversized Facilities upon completion of installation, and final inspection and acceptance by the Authority.
 - (2) Where Oversized Facilities are new pump stations and/or storage tank(s), Applicant may receive participation payments from future Applicants for the future Applicant's respective utilization of the oversized pump station(s) and/or storage tank(s) subject to the following conditions:
 - i. The Authority shall collect from future Applicants participation payments as set forth in Section B.5.c and remit such payments to Applicant who constructed the oversized pump station(s) and/or storage tank(s) within ninety (90) Days of Authority's receipt.
 - ii. The Applicant who constructed the oversized pump station(s) and/or storage tank(s) shall be entitled to any reimbursement only if participation payments are received by the Authority within five (5) years from the date of final completion execution of the Water Service Agreement by the Applicant who constructed the oversized pump station(s) and/or storage tank(s).
 - iii. The Applicant who constructed the pump station(s) and/or storage tank(s) shall become ineligible for reimbursement in the event a subsequent capacity improvement project requires a modification of or addition to such oversized pump station(s) and/or storage tank(s).
 - (3) Applicants shall not be entitled to any interest on reimbursement payments.
 - (4) In those cases where two or more Applicants make a joint advance or contribution on the same Oversized Facilities, the Authority shall distribute reimbursements to such Applicants in the same proportion as their advances or contributions bear to the joint total, unless otherwise directed by all parties.
 - (5) Reimbursable amounts hereunder may be accumulated by the Authority to a minimum of ~~ten~~ thousand dollars (\$10,000.00) before payment.
6. Water Service Agreement
- a. All Applicants requesting service for a project under the provisions of this Rule shall be required to enter into a Water Service Agreement with the Authority. A proposed Water Service Agreement must be executed by Applicant within sixty (60) days after issuance by Authority, or such other time as set forth in the proposed Water Service Agreement. A proposed Water Service Agreement shall only be binding when executed by both Authority and Applicant, and all terms and conditions in a proposed Water Service Agreement are subject to change until executed by Applicant and Authority.

Added: 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

- b. At the time the Water Service Agreement is executed, Applicant shall pay all applicable Schedule BSF charges not otherwise paid at the time of Application and shall pay all Schedule WSF charges, unless payment of Schedule WSF Charges is deferred pursuant to Section B.4.g(1).
- c. 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 approval of Applicant's water project 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) Authority, at its sole discretion, may consider and may grant extensions in 1 year increments if Applicant has commenced water project construction and Applicant submits a written request for an extension to the Authority at least 60 days prior to the potential expiration and termination of the Water Service Agreement and Applicant: (a) demonstrates work is being performed on the water project; (b) submits a schedule of work and periodic updates on the progress of the water project and; (c) demonstrates good cause for such extension. Such request for extension must clearly describe project status and the reasons for delay.
- (2) 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.
- de. 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 ~~"capacity 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 90 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, or the written request for a

Added: 01/01/15

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

refund to the Authority is made more than 90 days after the execution of the Water Service Agreement, or the water service agreement automatically terminates per Section B.6.c, Authority shall issue a “capacity ~~cash~~credit- ~~credit~~” expressed in GPM to the owner of the Service Property or its designated successor or assign (the “Credit”), equal to the monetary value (not the capacity) of the Demand and Deficit Demand purchased by Applicant. Capacity Credits credits may be assigned or transferred to other parties only upon notification to and written approval from the Authority. Credits Capacity credits issued pursuant to this subsection can only be applied to other Water Service Agreement(s) for Application(s) for new Service and Modified Service within the same Charge Area as the Service Property for which the capacity- Credit credit was issued; provided, however, that capacity Credits related to Supply and Treatment Charges issued pursuant to this subsection for service properties in Charge Areas 0 through 12 can be applied to other Water Service Agreement(s) for Application(s) for new Service and Modified Service anywhere within Charge Areas 0 through 12. In no circumstance can any Credit issued by the Authority be converted to a cash refund. Written direction to the Authority by the Service Property owner, or its designated successor or assign, is required to apply capacity Credits to subsequent Water Service Agreement(s). If an Applicant owns Credits or capacity credits given under previous versions of this Rule within the Charge Area where their Project is located, the Applicant shall fully utilize any such credits before Authority will accept cash payment for WSF Charges.

- (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 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.ed, all Schedule BSF and Schedule WSF charges paid by an Applicant are non-refundable.
- e. 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.
 - f. 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.

Truckee Meadows Water Authority

RULE 5

WATER SYSTEM FACILITIES

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.

2. Easements and Right-of-Way. The Authority shall only construct or accept construction of Water System Facilities under this Rule that will be located in a public street, road or highway, which the Authority has the legal right to occupy. At its sole discretion, Authority may allow location of Water System Facilities on public lands and private property across which rights-of-way, easements and permits are satisfactory to the Authority have been provided by the Applicant. Easements on private lands less than 10 feet in width either side of the centerline of the Facilities, or easements located under structures or through parking areas will not be considered by the Authority. The Authority will not purchase rights-of-way for installation of Facilities under the provisions of this Rule.