

## **R10-23 AVAILABILITY RATES**

### (a) Definitions:

- (1) "Availability rate" - means a fee or charge paid to a sewer utility by a subscriber thereof for the availability of sewer service being provided by the utility in a specific subdivision or real estate development.
- (2) "Customer" or "subscriber" - for purposes of this rule, means a person who is a nonuser of the sewer service provided by a sewer utility and who has subscribed to the availability of sewer service.
  - (a) If a person subscribes to availability of service to more than one lot, that person shall be considered a separate customer for each separate lot served; except that two lots occupied by a single dwelling may be considered as a single lot when the dwelling occupies a portion of both lots in such a manner that no additional separate dwellings can reasonably be anticipated on the lots.
- (3) "Availability of sewer service" - means that safe, sanitary and unoffensive collection, treatment and disposal of sewage is available at all times by means of a sewer main located within 75 feet of the boundary of the subscriber's property served, or such other distance as the Commission deems reasonable, whether or not sewage is actually delivered to the system by the subscriber, and whether or not a service outlet is located inside the boundary of the property served.

(b) Disclosure to Customer Required. - Each utility shall first ensure that its customers have been given adequate disclosure of any availability rate, in accordance with the provisions of this rule, prior to accepting a customer's subscription to availability service or accepting the initial assignment of a contract for availability service.

- (1) Form of disclosure - The disclosure form shall be a written instrument signed by the customer, and if reasonably practical it shall be separate from other documents pertaining to the sale of property. The written instrument may be part of a uniform contract entered into between the developer of a subdivision and a lot purchaser in the subdivision, or it may be part of a written agreement between the customer and the utility. Acceptable sample disclosure forms are set out as an Appendix to Chapter 7 of these rules.
- (2) Information in disclosure - The disclosure form shall contain the following information:
  - (a) Definitions of "availability rate" and of "availability of sewer service" as contained in this rule.
  - (b) A statement specifying whether or not the availability rate shall continue to be applicable to the subscriber even if at some time in the future the subscriber's property should no longer be in use and the sewer service should no longer be required by the subscriber.
  - (c) The amount of the availability rate approved by the Utilities Commission, or if no amount has been approved, the amount that is to be submitted for approval.
  - (d) A statement relating to the nature and amount of any charges or fees that the customer may be obligated to pay if he should wish to become a sewer user; i.e., tap on fees.
  - (e) Written certification by the customer that the customer understands the meaning of such availability rate and that he subscribes to the imposition of such rate for the availability of water service.

(c) Approval of Disclosure Form Required. - The sample disclosure forms contained in the Appendix to Chapter 7 of these rules shall constitute adequate disclosure forms. Any disclosure form varying from the sample disclosure forms shall be submitted to and approved by the Utilities Commission prior to accepting the customer's subscription to availability service or accepting the assignment of a contract for availability service. The Commission shall either approve or disapprove the submitted form as promptly as possible.

(d) Improper Disclosure Is Grounds for Denial of Franchise and Rates. - In the event the Utilities Commission finds that disclosure of the availability rate has not been made in accordance with the provisions of this rule, the Commission may conclude that the availability rate in whole or in part should not be allowed.

(e) Record of Subscription. - Each utility shall maintain in its files a permanent record of each written certification, subscription or contract relating to an availability rate imposed by that utility.

(f) Collection of Availability Rate. - No utility shall collect an availability rate unless and until a tariff providing for such availability rate has first been filed with and approved by the Utilities Commission.

(g) Not Applicable When User Rates Are in Effect. - No availability rate approved by the Utilities Commission shall be applicable to any property when the regular user rates are in force for that property.

(h) Applicable Only When Franchise in Force. - All availability rates approved by the Utilities Commission shall be applicable only during the period of time that the utility franchise remains in force for the property served, unless such Commission approval specifies otherwise.

(i) Amount of Availability Rate. - No availability rate shall exceed the minimum rate established by the Commission for water users. Both the availability rate and the minimum user rate are subject to change from time to time upon approval by the Utilities Commission.

(j) Denial of User Service. - No utility may deny sewer user service to its customers for nonpayment of availability rates imposed under contracts entered into prior to the effective date of this rule, except where such availability rates had been authorized under a Commission rule.

(k) This rule shall become effective on and after April 2, 1975.

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