

Dear Clients, Colleagues, and Friends,

Among all the other recent changes faced by municipalities and Authorities (e.g. elimination of Act 339, Uniform Construction Code) is the implementation of the new tapping fee law, Act 57-2003, the result of several years of negotiation and legislative wrangling. Since its adoption in December 2003, there has been a flurry of activity by various groups representing the industry to interpret its meaning to municipal water and sewer systems across Pennsylvania.

Having been involved in some discussions during the negotiation of the legislation, I must say that, while some portions of the law are not as favorable to Authorities as desired, this Act may not be as much of a problem to Authorities as may have originally been anticipated and actually offers some substantial improvements over Act 203 of 1990. This appears to be especially true with respect to clarification of terms, assuring more consistent application of the law throughout the State. Another interesting provision that appears favorable to municipalities and Authorities is the ability to include costs for infiltration/inflow removal in the tapping fee structure if these costs "result in an increase in system design capacity".

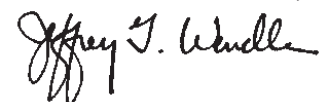
It is not possible to address all impacts of the Act on tapping fees in a brief letter. A number of articles have already been published in various trade journals and seminars planned to address the fine points. In addition, ample time is provided for each municipality or Authority and its legal and engineering professionals to flesh out the impacts of the law on its own tapping fee structure. Unless current tapping fees are changed, which requires immediate implementation of the Act's provisions with respect to tapping fee calculations, Authorities have until June 2005 to recalculate tapping fees, and longer in some cases.

In addition to the changes pertaining to tapping fee calculations, the Act also provides Authorities with important new powers with respect to private building services and laterals that will enable them to more effectively address infiltration/inflow or water loss. Other new aspects of the law include dispute resolution provisions for challenging of tapping fees or billings to property owners/developers in connection with the review of plans, construction inspections, and administrative, legal and engineering services.

While not the primary subject of discussions associated with this Act, this new provision for challenging charges to property owners/developers is an issue that will require attention. Clearly, this provision is included in the Act because representatives of the building industry convinced legislators that municipalities and Authorities and/or their professionals were overcharging. Some challenges, therefore, should be expected. In our opinion, the key to dealing with these challenges and discouraging them in the future is the keeping of detailed documentation of the charges, especially with respect to reviewing multiple plan submittals and construction observation requirements.

As with any change, adjustments are required. It's just the nature of the business. Our advice is that municipalities and Authorities and their professionals take advantage of the presentations and discussions regarding Act 57 being offered throughout the State, to enable them to successfully implement the Act's provisions in their own operations.

Until next time,



Jeffrey G. Wendle, P.E.
President