

A RESOLUTION to amend the Administrative Manual, Part III, Basin Regulations – Water Charges relating to a Schedule of Water Charges.

WHEREAS, in response to the need to fund certain Water Supply Storage Facilities Projects, the Commission between 1964 and 1974 established a system of water supply charges pursuant to Section 3.7 of the Delaware River Basin Compact; and

WHEREAS, in December 1964 the Commission adopted Resolution No. 64-16A, “A Resolution to establish policy concerning water supply in federal projects authorized in the Comprehensive Plan” that established a revenue stream to repay the obligations the Commission eventually assumed to purchase capacity at the federal government’s Beltzville and Blue Marsh water storage facilities; and

WHEREAS, Resolution No. 64-16A specifically provided that the debt for the Commission’s share of storage in these facilities would be repaid through the sale of water (or other products and services) and through an apportionment of the costs to the states benefiting from those projects; and

WHEREAS, on April 7, 1971, the Commission adopted Resolution No. 71-4 “A Resolution to amend and supplement the Comprehensive Plan by adding a new article on policy for water supply charges” that established a schedule of rates for basin water withdrawals and provided that the charges for water supply will include all costs associated with making the basin water supply available and maintaining its continued availability in adequate quantity and quality over time; and

WHEREAS, Resolution No. 71-4 further requires the Commission to collect sufficient annual revenues to meet all annual project costs, including debt service, operation, maintenance, replacement reserves and associated administrative costs; and

WHEREAS, the Commission and the federal courts recognized that the waters of the basin forms a “unitary system” and thus applied the charges to water withdrawals made throughout the basin, including those up-stream of Commission facilities; and

WHEREAS, Resolution No. 71-4 imposed charges only on withdrawals of surface waters of the basin; and

WHEREAS, Section 15.1(b) of the Compact, limited charges to the amounts of water withdrawn in excess of those “that could lawfully have been made without charge on the effective date of the Compact;” and

WHEREAS, Resolution No. 71-4 provided that the water rates would consist of “the weighted-average unit cost of all water stored by or on behalf of the Commission” and specified that the unit cost of all water would be determined “by dividing all of the Commission’s annual

project cost by the net yield of the water supply in federal reservoirs authorized in the Commission's Comprehensive Plan;" and

WHEREAS, in accordance with this formula, a schedule of water charges was established by Resolution No. 74-6, adopted May 22, 1974, that established charges for water of \$.04 per thousand gallons for consumptive use (\$40 per million gallons) and four-tenths of a mill per thousand gallons (\$.40 cents per million gallons) for non-consumptive use; and

WHEREAS, the schedule of water charges, is codified in Section 5-3.1 of the Commission's Administrative Manual, Part III, Basin Regulations – Water Supply Charges

WHEREAS Resolution No. 78-14, adopted on October 25, 1978 after public notice and hearing, codified the current schedule of water charges based on the formula established in Resolution No. 71-4 using the unit costs of water stored for the Commission in the Beltzville and Blue Marsh Reservoirs.

WHEREAS, Resolution No. 78-14 amended the schedule of water charges to be \$.06 per thousand gallons for consumptive use (\$60 per million gallons) and six-tenths of a mill per thousand gallons (\$.60 per million gallons for non-consumptive use); and

WHEREAS, these rates have remained unchanged for more than thirty years and lag far behind the rates charged for raw (untreated water) by other purveyors; and

WHEREAS, Resolution No. 71-4 provides that cost rates and charges will be recomputed as often as necessary to reflect relevant changes in any cost components associated with sustaining base flows; and

WHEREAS, in order to maintain net income to the storage fund and ensure financial stability to address future operating and maintenance costs, the Commission posted a Notice of Proposed Rulemaking and Public Hearing in the New York, New Jersey, Pennsylvania, Delaware and Federal Registers and on its website in February and March 2010; and

WHEREAS, the Commission proposed new rates in a February 2010 Notice of Proposed Rulemaking calculated using the formula established by Resolution No. 71-4, set forth above are as follows: The consumptive use rate was proposed to be increased from \$60 to \$90 per million gallons effective January 1, 2011 and from \$90 to \$120 per million gallons effective January 2012. The non-consumptive use rate was proposed to be increased from \$.60 to \$.90 per million gallons effective on January 1, 2011 and from \$.90 to \$1.20 per million gallons effective on January 1, 2012; and

WHEREAS, the Commission reviewed testimony presented during a Public Hearing on April 13, 2010 and written comments received through the end of the public comment period; and

WHEREAS, the Executive Director upon receipt of the public comments has recommended to the Commissioners the following modifications to the proposed increase:

To increase the consumptive water rate charges from \$60 per million to \$80 per million and increase the non-consumptive water rates from \$.60 per million gallons to \$.80 per million gallons effective January 1, 2011, and the Executive Director further recommended that the Commission undertake various studies over the next twenty-four months, now therefore,

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Administrative Manual, Part III, Basin Regulations - Water Supply Charges, is hereby amended by revising Section 5.3.1 thereof to read as follows:

Section 5.3.1 Schedule of Water Charges. The Commission will from time to time, after public notice and hearing, make, amend and revise a schedule of water charges. Until changed, the charge for water shall be as follows:

- A. \$80 per million gallons for consumptive use; and
 - B. \$.80 per million gallons for nonconsumptive use.
2. The amended water charging rates shall take effect on January 1, 2011.
 3. The Commission authorizes the Executive Director to establish a Water Charges Advisory Committee.
 4. The Commission authorizes the Executive Director to identify and develop proposals for studies addressing the various issues affecting water charges.

This Resolution shall take effect immediately.

/s/ Katherine E. Bunting-Howarth
Katherine E. Bunting-Howarth, Chairwoman *pro tem*

/s/ Pamela M. Bush
Pamela M. Bush, Esquire, Commission Secretary

ADOPTED: September 15, 2010