



Tapping Fees

The Law, as Amended



Status

- ✓ HB 51, P.N. 3049 passed General Assembly (12/03)
- ✓ Governor signed Dec. 30, 2003
 - ✦ Act 57 of 2003
 - ~ Amends the Municipality Authorities Act (original TF law, Act 203 of 1990, amended the MAA)
 - ~ Also impacts municipal-run systems (original TF law, Act 209 of 1990, amended the MPC (references the MAA))



Today's Session

- ✓ Overview of Major Changes
- ✓ Impact of Act 57 on your tapping fee
- ✓ Illustration of Changes & Case Studies

Panel: PMAA TF Workgroup,
PMAA Solicitors, Engineers



Materials

✓ Act 57 of 2003

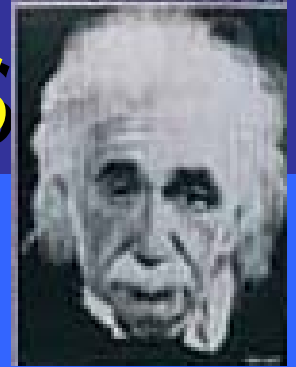


Tapping Fees

- What is it?

A charge reflecting capital costs to a property owner connecting to an authority's water or sewer system.

The Theory of Tapping Fees



● Theory:

- ✦ *New water or sewer customer should “buy in” to the system before obtaining service.*
- ✦ *A payment for facility costs not funded by user rates.*

Updating Tapping Fees

Background

- Act 203 of 1990 – established tapping fee parameters
- Legislators request update to Act 203 in 2000
- Provide more consistency and clarity
- Formed PMAA & PBA workgroups
- 3 years of extensive negotiations among workgroups, legislators, interested parties
- 37 drafts, 22 meetings with PBA

Major Changes

Effective Dates

- Immediately – First time or increasing current fees

(Section 2) ... (p. 14)



- June 30, 2005 (18 mos. from date Act was signed 12/30/03)

Required to recalculate tapping fees

(Section 5) . . . (p. 14)

Effective Dates

• Time extensions limited to certain circumstances

- Long-term financing (Section 4 (2)) . . . (p. 14)
 - ~ Original financing closed on or before 7/1/03
 - ~ Term of 15 years
 - ~ Construction of new facilities
 - ~ Tapping fees relied upon

Effective date: 5 years from date of closing

Effective Dates

● Time extensions limited to certain circumstances

- Long-term contracts (Section 4 (1)) . . . (p. 14)
 - ~ **Sewer** tapping fee
 - ~ Joint authority – serve 6 or more municipal members
 - ~ Contract prohibits increasing sewer user fee executed prior to 1/1/03

Effective date: 15 years from Dec. 30, 2003

Expanded Powers



● Rules & Regulations

(Section 5607 (d) (17)) . . . (p. 1)

- Intent - require customers to fix leaking or damaged lines on property
- Give authorities ability to minimize I & I & water loss
- Refusal – refer to local magistrate, summary offense
- No ordinance required from municipality
- Must adopt rules and regulations (through resolution)
- Effective immediately

Reservation of Capacity Fee Option

(Section 5607 (d) (24)) . . . (p. 2)

- Option to collect fee to reserve capacity
- Based on debt & operating expenses
- Limit on fee - not to exceed 60% of average sanitary sewer bill in same area
- Applies to water and sewer
- Fee is independent of TF
- May collect both fees
 - ~ TF may not be collected until time building permit fee is due

Adoption of Resolution

(Section 5607 (d) (24) (i) (C)) . . . (p. 3)

- Authority must adopt a tapping fees resolution that includes all parts of the tapping fee they impose



Connection Fee

(Section 5607 (d) (24) (i) (A)) . . . (p. 2)

● Connection of the property from authority's main to the property line or curb stop

● **Cost Basis (change):**

- Replacement cost option
 - ~ average cost trended to current cost levels using published cost indexes i.e., Engineering News Record (ENR)



Customer Facilities Fee

(Section 5607 (d) (24) (i) (B)) . . . (p. 2)

- Fee for connection from the property line or curb stop to the dwelling or building
- **No change to this section**

Capacity Part of Tapping Fee

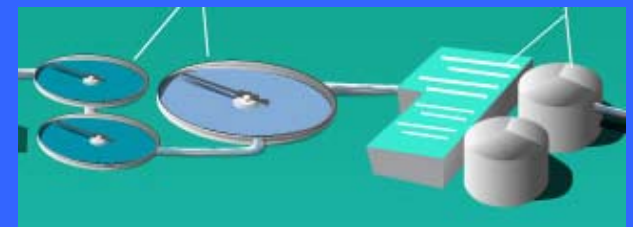
(Section 5607 (d) (24) (i) (C) (I)) . . . (p. 3)

• Cost of capacity related facilities, i.e., source of supply, treatment, pumping, interceptors, outfalls

• **Cost Basis (change):**

Replacement cost option

- Used only if historical costs are not ascertainable
- Engineer's estimate required



Capacity Part of Tapping Fee

(Section 5607 (d) (24) (i) (C) (I)) . . . (p. 3)

● Order of Calculation

- Grants deducted & contributions excluded before trending
- Trend only net amount

Also applies to distribution & collection (p. 5) and special purpose parts (p. 6).

Outstanding Debt

(Section 5607 (d) (24) (i) (C) (I)) . . . (p. 3)

Language clarified as to when deduction applies

Debt not deducted:

- 1) calculating the initial TF (under Act 57)
for the facilities exclusively serving
new customers

Outstanding Debt

● Debt not deducted:

- 2) subsequent revisions of the initial TF where historical cost has not been updated to reflect current cost (trended)

Outstanding Debt

Debt not deducted:

3) New provision

- Allows increasing initial TF by the weighted average interest rate paid on indebtedness
 - Updated annually without updating historical cost or subtracting outstanding debt
 - Based on period since fee was initially established or last increase of TF
 - Applies after June 30, 2005 unless recalculating initial TF or establishing TF for the first time

Outstanding Debt

● Debt deducted:

- ~ Subsequent revisions of the TF where historical cost has been updated to reflect current costs (trended)
- ~ Facilities not initially serving exclusively new customers

Capacity Related Future Facilities Fees

(Section 5607 (d) (24) (i) (C) (I) . . . (p. 4)

● **Conditions to include cost of future facilities in TF calculation:**

- Increase the system design capacity
- Maintain separate accounting
(Section 5607 (d) (24) (I) (C)(VI)
p. 10)



Capacity Related Future Facilities Fees

(Section 5607 (d) (24) (i) (C) (I)) . . . (p. 4)

● **Conditions to include cost of future facilities in TF calculation:**

- Have taken two actions toward construction of future facilities:

- 1) obtained financing
- 2) entered into a contract
- 3) obtained permit
- 4) obtained property
- 5) contract to acquire facilities
- 6) prepared engineering study
- 7) contract for design or construction (including in-house)

Refunds

Capacity Related Future Facilities

(Section 5607 (d) (24) (i) (C) (VI) (a) & (b)) . . . (p. 10)

Conditions to refunds

- Not built or placed into service within:
 - ~ 7 years of adopted resolution
 - ~ 15 years of adopted resolution if serve 5 or more municipalities with interest
- Effective: 12-30-03 (p. 14, section 3)
Not retroactive

Distribution or Collection Part

(Section 5607 (d) (24) (i) (C) (II)) . . . (p. 5)

● Fee based on:

- D or C facilities required to provide service, i.e., mains, hydrants, pumping stations
- Applies only to existing facilities, not future facilities

Special Purpose Part

(Section 5607 (d) (24) (i) (C) (III)) . . . (p. 6)

● Fee based on:

- Facilities for particular group of customers, purpose or specific area, i.e., booster pump stations, fire service, **water or sewer mains**, pumping stations
- Applies only to existing facilities, not future facilities
- Option to express design capacity in EDUs served by the facility

Reimbursement Part

- Facilities built
- Facilities paid for upfront by developer
 - Reimburse developer (Section 31 of MAA)
 - ~ Within 10 years
 - ~ New users connect a service line to the extension (paid for by developer)
 - ~ Reimbursement is **mandatory**

Reimbursement Part

(Section 5607 (d) (24) (i) (C) (VII)) . . . (p. 11)

Definition of Service Line:

water or sewer line that directly connects a single building or structure to a distribution or collection facility.

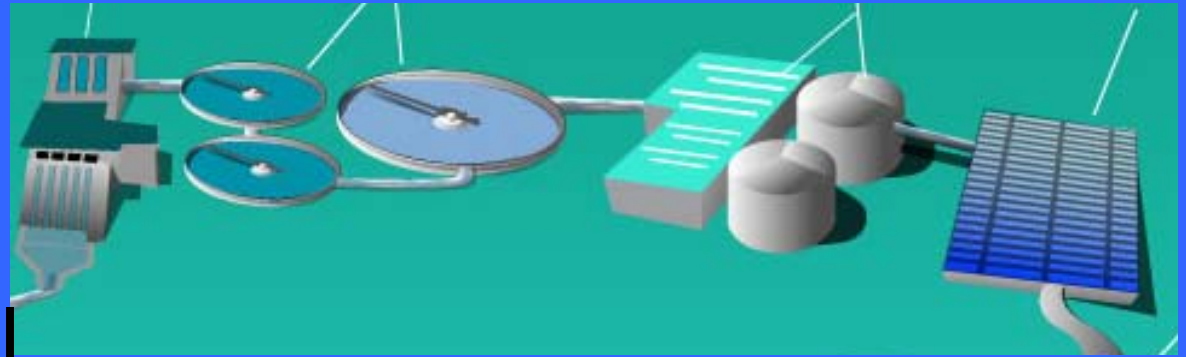
Reimbursement Part

(Section 5607 (d) (24) (i) (C) (IV)) . . . (p. 7)



• Written Agreement

- May enter into written agreement to cover other reimbursement situations as agreed upon by both parties
- Reimbursement is **optional**



Service Line
Connection
(Mandatory
Reimbursement)



Reimbursement
Part



Written Agreement
(Optional Reimbursement)



Flow Calculations

(Section 5607 (d) (24) (i) (C) (V) (e)) . . . (p. 8)

Flow calculation of fees

- Options: 2 water, 3 sewer
- 3 census figures (local, county, state = 2.4)

▪ Water (2 options):

- 1) 65 gpd X census figure
- 2) Metered average water usage (within last 5 yrs. over 12 consecutive months.)

Flow Calculations

- **Sewer (3 options):**

- 1) 90 gpd X census figure

- 2) Metered average water usage +10%
(within last 5 yrs. over 12 consecutive mos.)

- 3) Sewage study – measured average wastewater flow (within last 5 yrs. over 12 consecutive months for 3 subdivisions of 10 or more lots)

Usage Study Certification

(Section 5607 (d) (24) (i) (C) (V) (e) (iv)). . . (p. 9)

- **Study used as basis for calculation** (metered water or sewage flow study)
 - Conducted by authority employee or other individual
 - Study challenged by developer or applicant
 - Submit own study certified by professional eng.
 - 2 options for authority
 - 1) Accept developer study
 - 2) Verify with own study certified by another professional engineer

Multi-Family Fee

(Section 5607 (d) (24) (i) (C) (V) (f) . . . (p. 10)

- **Lower design capacity & TF**
 - May be used for multi-family residential dwellings



Billing Dispute/Resolution Process

(Section 5607 (d) (30) (i)) . . . (p. 13)

● Billing associated with:

- Construction, engineering services, inspections
- Process
 - ~ Similar to Municipalities Planning Code



Billing Dispute/Resolution Process

Process

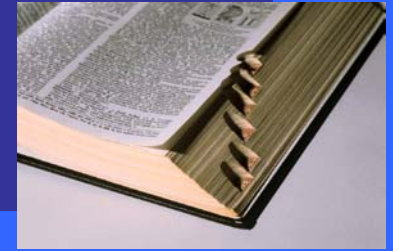
- Owner notify authority within 20 working days of date of billing
- No agreement within 30 days, appoint professional they agree upon to resolve
- Decision rendered within 60 days of billing date, payment due immediately
- No agreement on professional within 30 days of billing date, court of common pleas within municipality appoints professional

Billing Dispute/Resolution Process

Payment of Professional's fee

- Amount $>$ or $=$ original bill - Applicant pays
- Amount $<$ original bill by \$2500 or more - Authority pays
- Amount $<$ original bill by \$2499 or less - both parties pay half

Definitions



(Section 5607 (d) (24) (i) (C) (VII)) . . . (p. 10)

- **BOD5**
- **Outstanding Debt**
- **Service Line**
- **System Design Capacity**
- **Design Capacity**

Definitions

(Section 5607 (d) (24) (i) (C) (VII)) . . . (p. 10)

Definitions

- **BOD5** - The five-day biochemical-oxygen demand.
- **Outstanding debt** - The principal amount outstanding of any bonds, notes, loans or other form of indebtedness used to finance or refinance facilities included in the tapping fee.

Definitions

- **Service line** - A water or sewer line that directly connects a single building or structure to a distribution or collection facility.
- **System design capacity** - The design capacity of the system for which the tapping fee is being calculated which represents the total design capacity of the treatment facility or water sources.

Definitions

- **Design capacity** - For residential customers, the permitted or rated capacity of facilities expressed in million gallons per day. For nonresidential customers, design capacity may also be expressed in pounds of BOD5 per day, pounds of suspended solids per day or any other capacity defining parameter that is separately and specifically set forth in the permit governing the operation of the system, and based upon its original design as modified by those regulatory agencies having jurisdiction over these facilities. Additionally, for separate fire service customers, the permitted or rated capacity of fire service facilities may be expressed in peak flows. The units of measurement used to express design capacity shall be the same units of measurement used to express the system design capacity. Except as otherwise provided for special purpose facilities, design capacity may not be expressed in terms of equivalent dwelling units.