

**WEST HANOVER TOWNSHIP WATER & SEWER AUTHORITY
DAUPHIN COUNTY, PENNSYLVANIA
Resolution 2022 — A – 3**

**A RESOLUTION OF THE BOARD OF THE WEST HANOVER TOWNSHIP WATER
& SEWER AUTHORITY, DAUPHIN COUNTY, PENNSYLVANIA, AUTHORIZING
THE IMPLEMENTATION OF ACT 43 OF 2021 AND THE PROCEDURE FOR ACT
43 APPEALS AND AUDITS.**

WHEREAS, this Authority was incorporated pursuant to appropriate action of the Township of West Hanover (hereinafter, the “Township”), pursuant to the provisions of the Pennsylvania Municipality Authorities Act, as amended, 53 Pa.C.S.A. §5601 *et seq.*, and;

WHEREAS, this Authority owns and operates certain sewer facilities for the collection, transportation and treatment of sewage (the “Sewer System”) and;

WHEREAS, the Pennsylvania Legislature enacted Act 43 of 2021¹ (“Act 43”) which was effective on August 30, 2021 and;

WHEREAS, Act 43 authorizes a sewer rate audit and appeal process for owners of multiple residential units that are served by a single water meter, and;

WHEREAS, residential users, defined by Authority resolution as Domestic Establishments, pay a flat rate for sewer service.

WHEREAS, the flat rate is not based on actual water usage.

WHEREAS, this Authority desires to implement a fair and equitable procedure for audits or appeals under Act 43.

NOW, THEREFORE, BE IT RESOLVED, by the Board of this Authority, as follows:

SECTION I

1. The Authority Board shall consider sewer rate audits and appeals under Act 43 at either regular public meetings or scheduled hearings.

¹ Act 43 is codified at 53 Pa.C.S. § 5607(d)(9)

2. Act 43 relief is limited to owners of multiple residential units that are served by a single water meter.

3. The burden of proof shall reside with the owner to show it qualifies under Act 43.

4. An owner shall initiate the audit and appeal process by filing an Act 43 Billing Adjustment Application Form (the "Application"). Such Application shall be available by contacting Authority staff. The Board authorizes staff to prepare an Application substantively in the form attached as Exhibit A. Such Application may be revised from time to time as required to effectively administer Act 43 relief.

5. Any qualifying owner seeking Act 43 relief shall provide five (5) years of actual water usage data prepared by a public water utility or from a well as provided by a calibrated meter. Meter calibration must be provided by a third party company or agency registered with and approved by the Commonwealth of Pennsylvania.

6. Upon receipt of a complete Application, the Authority shall determine the average actual water usage for a metered Domestic Establishment in gallons per day/EDU over the prior 2 years. Such a determination shall be based on records from Pennsylvania-American Water Company or other such water provider. The Authority shall share this information with the owner/applicant.

7. To qualify for Act 43 relief, an owner/applicant must show that its average actual water usage in gallons per day/EDU is 30% less than the average actual water usage in gallons per day/EDU based on all Domestic Establishments serviced by the Authority.

8. If the owner can show the 30% less usage, the Authority will reduce the owner's sewer rate by the actual percentage, subject to an additional 10% pursuant to Act 43.²

9. Any such sewer rate reduction shall become effective at the time of the next billing quarter following the Authority's determination. Owner must submit actual water usage data on an annual basis to show the property continues to meet the water usage identified in the Application, or the rate will automatically return to the rate charged under the current fee schedule.

10. Despite any reduction in the owner's sewer rate pursuant to Act 43, the number of EDUs allocated to an owner's qualifying residential units will remain unchanged.

² Solely for illustrative purposes, if the owner shows that its average actual usage is 35% less than the average actual usage of the average Domestic Establishment, then the owner's rate will be reduced by 25% (35% - 10% pursuant to Act 43).

11. The Board authorizes staff to prepare and revise policies and procedures to fully implement this process as the law on Act 43 evolves and regulatory guidance is published. Policies and procedures shall initially be in the form attached as Exhibit B.

12. The Authority's Act 43 final determination shall be appealable to the Dauphin County Court of Common Pleas.

SECTION II - CONSTRUCTION AND SEVERABILITY

In the event any provision, section, sentence, clause, or part of this Resolution shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this Resolution, it being the intent of the Authority that such remainder shall be and shall remain in full force and effect.

SECTION III - REPEALER

All other Resolutions or parts of Resolutions inconsistent herewith expressly are repealed.

SECTION IV – EFFECTIVE DATE

This Resolution will take effect immediately.

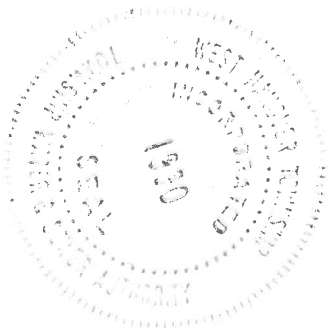
DULY ADOPTED into a Resolution this 20th day of September, 2022, by the Board of the West Hanover Township Water & Sewer Authority in lawful session duly assembled.

ATTEST: WEST HANOVER TOWNSHIP WATER & SEWER AUTHORITY

(Authority Seal)

By: 
Joseph Sembrot, Secretary

By: 
Michael A. Kreiser, Chairman



CERTIFICATE

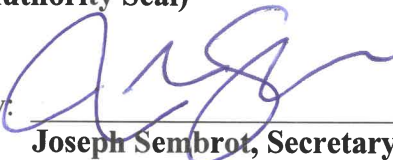
I, the undersigned, Secretary of the Board of West Hanover Township Water and Sewer Authority (the "Authority"), certify that the foregoing is a true and correct copy of a Resolution which was duly adopted by affirmative vote of a majority of all members of the Board of the Authority at a meeting duly held on September 20, 2022, at which meeting a quorum was present, after due notice to the members of the Board of the Authority and to the public and which was at all times open to the public; that said Resolution has been duly recorded in the minute book of the Authority; and that said Resolution is in full force and effect, without amendment, alteration, or repeal, as of the date of this Certificate.

I further certify that the Authority met the public notice requirements of Sunshine Act by advertising the place, date and time of said meeting in a newspaper of general circulation, and by posting a Notice of the place, date and time of said meeting at the meeting place of the Board of the Authority, and by giving Notice to parties upon request.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Authority, this _____ day of September, 2022.

ATTEST: WEST HANOVER TOWNSHIP WATER & SEWER AUTHORITY

(Authority Seal)

By: 

Joseph Sembrot, Secretary

By: 

Michael A. Kreiser, Chairman

EXHIBIT A

Act 43 Billing Adjustment Application Form

WEST HANOVER WATER & SEWER AUTHORITY

7901 Jonestown Road, Harrisburg, PA 17112

Phone (717) 540-0124 www.whtsa.com

Act 43 Billing Adjustment Application Form

Pursuant to Act 43, only owners of multiple residential units (Domestic Establishments) that are served by a single water meter may apply

Instructions: Requests must be submitted by the property owner in writing by completing this Act 43 Billing Adjustment Application Form. All sections must be completed for consideration of the billing adjustment. Allow 30 days for the completeness review. The Authority will deny an incomplete application and notify the owner by mail. Should the owner choose to amend the application and resubmit it, the Authority will treat the application as a new submission. If complete, allow an additional 30 days for a technical review and field verification. This review will determine if the application and related submittals provides adequate substantiation for a billing adjustment. The Authority will provide a deficiency letter by mail should additional information be required to make a determination. Should the owner choose to amend the data and resubmit, the Authority will require another 30 days for review. The applicant must be an owner in good standing with the Authority for consideration of a billing adjustment. A billing adjustment will only be made if the amount billed exceeds the actual usage by 30% or more in accordance with the Authority's resolution and Act 43 Policies and Procedures. Please **PRINT** clearly if not using the fillable form.

Owner's Name: _____ Email Address: _____
(Applicant must be the owner of the dwelling, attach photo ID if applicable)

Owner's Mailing Address: _____ Phone No: _____

Property Address: _____ Account No: _____

Deed or Instrument No: _____ Tax Parcel ID: _____
(Attach copy of the Deed)

Total Water Meter(s) Serving the Property: _____ Size of Water Meter(s) in Inches Serving the Property: _____

Meter or Premise No(s): _____ Name of water service provider: _____
Optional information (provide sketch of water meter and water service line location on back of application)

Meter Location: _____

Owner must attach a minimum of five (5) consecutive years through the date of this application of actual water usage data from a credible source. Metered water must have a credible meter certification, dated within five (5) years of the current date. Water meter reading data shall be summarized into quarterly totals.

The Authority reserves the right to require vacancy information and supporting documentation during the application review process.

Total residential units located at the property: _____ Total EDUs allocated to property: _____

By signing below, I certify that I am the owner of this property consisting of multiple residential units (each a Domestic Establishments pursuant to Authority resolution) that is served by a single water meter and that the application, and all attachments submitted with the application are complete and accurate to the best of my knowledge and information. Furthermore, I understand that falsifying such data could result in the back billing for sewer services provided and charged at an adjusted rate based on falsified information. I also understand that if a billing adjustment is applied to my account that I may not request another adjustment for five years after the adjustment is complete. If denied, I may resubmit once a year. I understand that I must submit recent actual water usage data on an annual basis, or the rate will automatically return to the rate charged under the current fee schedule.

Owner's Signature: _____ Date: _____

Print Name: _____

Space for Optional Sketch of Water Meter Location(s) on the Property:

Authority Use

Timeline:

Received: _____ / ____ / _____ Review By: ____ / ____ / _____ Outcome: Deny and Return to Customer or Move to Technical Review
If Denied —STOP

Technical Review Below By: _____ / ____ / _____ Outcome: Deny Return to Customer or Adjust Billing per Below Results
If Denied—STOP

Field verification

Building Served by a Single Water Meter (Yes or No): _____

Dwelling Type, Select All that Apply (Residential, Commercial, Mixed Usage) _____

Calculate

Total Residential Units (EDUs): _____

Average Water Usage for applicant property over prior 5 year period (average gpd/EDU): _____

Average Water Usage for all Domestic Establishments over prior 2 year period (average gpd/EDU): _____

Percentage of applicant's actual water use below average Domestic Establishment usage: _____

Bill Exceeds Usage by 30%: Yes ____ No ____

Only if bill exceeds 30%, reduce sewer bill by actual %, plus 10%. Total reduction in sewer rate: _____

Reviewer's Signature: _____ Name: _____ Date: _____

If approved, next adjustment request date: _____ (if denied N/A)

EXHIBIT B

Act 43 Policies & Procedures

Date: _____

ACT 43
POLICIES & PROCEDURES

REQUEST FOR BILLING ADJUSTMENT
(ACT 43 OF 2021)

1. Act 43 relief is limited to owners of multiple residential units that are served by a single water meter.
2. An owner/applicant (“Owner”) shall initiate the audit and appeal process by filing an Act 43 Billing Adjustment Application Form (the “Application”). An Application shall be available by contacting Authority staff. Such Application may be revised from time to time as required to effectively administer Act 43 relief.
3. The Application must be completed fully at submittal. An incomplete Application will be returned to the owner without review.
4. Any qualifying owner seeking Act 43 relief shall provide five (5) years of actual water usage data prepared by a public water utility or from a well as provided by a calibrated meter. Meter calibration must be provided by a third-party company or agency registered with and approved by the Commonwealth of Pennsylvania.
5. Should an owner choose to amend the Application and resubmit, the Authority will treat the Application as a new submission.
6. If an Application is complete at the time of filing, the Authority staff will review the Application for technical accuracy and field verification. This process will take approximately 30 days.
7. The Authority may request additional information during this process.
8. If the applicant provides additional data, the review process will be extended another 30 days.
9. Upon receipt of a complete Application, the Authority shall determine the average actual water usage for a metered Domestic Establishment in gallons per day over the prior 2 years. Such a determination shall be based on records from Pennsylvania-American Water Company or other such water provider. The Authority shall share this information with the owner.
10. To qualify for Act 43 relief, an owner must show that its average actual water usage in gallons per day/EDU is at least 30% less than the average actual water usage in gallons per day for a metered Domestic Establishment serviced by the Authority.

11. If the owner can show the 30% less usage, the Authority will reduce the owner's sewer rate by the actual percentage, subject to an additional 10% pursuant to Act 43.³ The Authority reserves the right to consider peaking data in assessing whether an owner satisfies Act 43.

12. Any such sewer rate reduction shall become effective at the time of the next billing quarter following the Authority's determination. Owner must submit actual water usage data on an annual basis to show the property continues to meet the water usage identified in the Application, or the rate will automatically return to the rate charged under the current fee schedule.

13. Authority staff may make the adjustment or provide recommendations to the Authority Board for billing adjustments.

14. Adverse decisions of Authority staff are appealable to the Authority Board or its designated hearing officers.

15. The Authority Board or staff will provide a written decision outlining the reasons for the approval or denial of the Application.

16. Despite any reduction in sewer rate pursuant to Act 43, the number of EDUs allocated to an owner's qualifying residential units will remain unchanged.

17. The burden of proof shall reside with the owner to show it qualifies under Act 43.

18. The Authority's Act 43 final determination shall be appealable to the Dauphin County Court of Common Pleas within 30 days of the Authority's decision.

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³ Solely for illustrative purposes, if the owner shows that its average actual usage is 35% less than the average actual usage of a Domestic Establishment, then the owner's rate will be reduced by 25% (35% - 10% pursuant to Act 43).