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INITIAL AND FINAL JOINT STAFF MEMORANDUM

TO: **KAREN BUCKLEY**
Executive Secretary

DATE: September 9, 2026

FROM: **BRENDAN DONEGHY**
Staff Attorney

RE: **CASE NO. 26-0715-S-P**
TOWN OF WORTHINGTON

As detailed below, Staff recommends that this matter be dismissed.

Background

On August 5, 2026, Deborah Heflin, the former mayor of Worthington and a current customer of the sewer utility owned and operated by the Town of Worthington ("Town"), filed a petition pursuant to W. Va. Code §24-2H-6(a) and Sewer Rule §150 CSR 10.3.1 requesting that the Commission open a proceeding to determine whether the Town is a distressed utility. Included in Ms. Heflin's petition were exhibits documenting the seven Plans of Corrective Action the Town filed in response to Consent Order No. 10174 and a copy of an email from the DEP reporting its observations from its April 22, 2026 site inspection.

Earlier this year, in Case Nos. 26-0030-S-C through 26-0050-S-C, Engineering Staff conducted a comprehensive investigation into the Town's practices and procedures, management, operations, and maintenance of the sewer system, particularly as they relate to the vacuum collection system. As a result of the investigation, Staff made several recommendations, including that the Town provide Staff with its most recent POCA documenting the Town's commitment to improving the operation and maintenance of the existing vacuum system. The Town was ultimately ordered to provide the status of DEP's approval of the POCA and to report monthly on the progress made toward correcting the collection system deficiencies, treatment plant deficiencies, and staffing challenges, including the longer-term plans and actions being taken to replace the vacuum sewer system with a gravity system.

The DEP approved the Town's eighth version of its POCA, as required by Item No. 2 of Consent Order No. 10174. The POCA addresses the deficiencies identified under WV/NPDES Permit No. WV0100285 and Consent Order No. 10174. The plan provides a comprehensive strategy for restoring compliance and restoring the long-term reliability of the wastewater collection and treatment facilities. Key action items contained within the plan address plant operations, maintenance, and staffing.

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Staff Investigation and Recommendation

Attached is a memorandum from Lisa Bailey, Technical Analyst with the Commission's Engineering Division ("Engineering Staff"). As part of her investigation into this matter, Engineering Staff spoke with the Town's Interim Mayor, Melvin Lindsey. The Petitioner resigned from the Mayor position in July, 2026. Mayor Lindsey informed Staff that there were no new or unresolved customer complaints associated with the vacuum system.

Mr. Lindsey reported that the treatment plant has made progress and continues to address the action items identified in the POCA in an effort to maintain compliance. He further informed Staff that a new office manager has been hired and is being trained by the previous office manager. Monthly Board meetings have resumed, and engineering and financial updates have been provided. According to the Mayor, these efforts have been supported by the customers. The Town continues to pursue grant funding and other financial resources to facilitate improvements and ultimately replacement of the vacuum system with a gravity sewer system. In conjunction with those efforts, the Town's engineer is developing a Facility Plan to identify long-term system upgrades, funding strategies, and implementation schedules. Quarterly progress reports will be submitted to the DEP to document milestones and funding developments.

Staff finds this petition to be premature, as the Town's POCA was only approved in July 2026. The Commission's Order in the aforementioned complaint cases became final on June 29, 2026. Accordingly, the Town has not had sufficient time to implement the recommendations or to demonstrate progress under the POCA. The DEP informed Staff that it supports the Town's efforts to address its non-compliance issues.

Engineering Staff notes that vacuum collection systems present ongoing reliability and maintenance challenges, particularly when not properly maintained over an extended time period. The Facility Plan is expected to address a phased approach for transitioning to a new gravity sewer system. In the interim, Staff finds that the reporting requirements established under the POCA adequately address the Town's day-to-day operation and maintenance responsibilities and provide an appropriate framework for achieving greater stability from an operations and maintenance perspective.

Based on its investigation, Staff recommends that this case be dismissed to allow the Town adequate time to implement and demonstrate progress under the approved POCA.

BD/sw
Attachment
WB_____
S:_Staff_Files\BDoneghy\Cases\2026\26-0064-PWD-42T - Flatwoods-Canoe Run PSD\Final Memo.docx

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PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
ENGINEERING DIVISION'S INITIAL & FINAL MEMORANDUM

DATE: September 8, 2026

TO: Brendan Doneghy, Staff Attorney
Legal Division

FROM: Lisa Bailey, Technical Analyst
Engineering Division

SUBJECT: **Case No. 26-0715-S-P**
Town of Worthington
Petition of Deborah Heflin for determination that Town of Worthington is a Distressed Utility.
Initial & Final Memo

Background:

On August 5, 2026, Deborah Heflin (Petitioner/Customer) of the sewer utility owned and operated by the Town of Worthington (Town), pursuant to WV Code §24-2H-6(a) and *Sewer Rule* §150 CSR 10.3.1, filed a petition with the Public Service Commission of West Virginia (PSC) requesting the Commission to open a proceeding to determine whether the Town is a distressed utility.

In support of the petition, the Petitioner provided the following:

- **Exhibit A**: Documentation showing the Town submitted seven (7) versions of a Plan of Corrective Action (POCA) in response to Consent Order No. 10174: dated, August 6, 2025, August 28, 2025, October 10, 2025, November 20, 2025, December 22, 2025, April 30, 2026, and May 26, 2026. All seven plans were rejected by the Department of Environmental Protection (DEP).
- **Exhibit B**: The Town's POCA, Version 7, May-2026: introduction and system information identifying Order No. 10174, as well as Section D, which addresses the issuance of the Consent Order and denial of previous POCAs.
- **Exhibit C:** Email from James D. McClain, Environmental Inspector Supervisor, WVDEP, dated April 24, 2026, reporting observations from the April 22, 2026 site inspection.

The Petitioner requests the Commission to open a proceeding pursuant to WV Code §24-2H-6(a) and *Sewer Rule* §150 CSR 10.3.1 to determine whether the Town's sewer utility is distressed. The Petitioner further requests the Commission to conduct the evidentiary and public comment hearings required under WV Code §24-2H-6(b) and *Sewer Rule* §150 CSR 10.4.1 in the Town's service area.

Additionally, the Petitioner requests the Commission to consider the factors under WV Code §24-2H-5(a) and *Sewer Rule* §150 CSR10.3.5, including the Town's financial, managerial, and technical capabilities; the level of expenditures necessary to assure compliance and the potential impact on customer rates; the opinion and advice of the DEP; and any other relevant matters.

The Petitioner also requests the Commission to ender the final order required under WV Code §24-2H-7(a) and *Sewer Rule* §150 CSR 10.4.4 determining whether the Town is a distressed utility and identifying any capable and proximate utilities, if applicable.

Previous Engineering Review:

On May 27, 2026, Engineering Staff submitted its final memorandum addressing approximately twenty (20) customer complaints (Case Nos. 26-0030-S-C through 26-0050-S-C) concerning the Town's lack of proper management and technical expertise necessary to upgrade, replace, and maintain its sanitary sewer system. The concerns included the need to ensure uninterrupted conveyance of sewage from customers' homes to the treatment plant, without backups into residences or discharge onto the ground, thereby minimizing and/or eliminating sewer gas, odors, and other unsanitary health conditions.

Engineering Staff conducted a comprehensive investigation into the Town's practices and procedures, management, operations, and maintenance of the sewer system, particularly as they relate to the vacuum collection system. As a result of the investigation, Staff made several recommendations, one of which required the Town to provide Staff with its most recent POCA documenting the Town's commitment to improving the

operation and maintenance of the existing vacuum system. The Town was also directed to provide the status of DEP's approval of the POCA and to report monthly on the progress made toward correcting the collection system deficiencies, treatment plant deficiencies, and staffing challenges, including the longer term plans and actions being taken to replace the vacuum sewer system with a gravity system.

Plan of Corrective Action Status:

The Town submitted the eighth (8th) version of its POCA on June 12, 2026. The WVDEP approved the plan, as required by Item No. 2 of Consent Order No. 10174. A letter of approval, dated July 1, 2026, was submitted to the Town's Mayor (Petitioner), by the DEP Chief Inspector, Brad M. Wright.

The approved POCA addresses the deficiencies identified under WV/NPDES Permit No. WV0100285 and Consent Order No. 10174. The plan provides a comprehensive strategy for restoring compliance and restoring the long-term reliability of the wastewater collection and treatment facilities. Key action items contained within the plan address plant operations, maintenance, and staffing.

Funding remains a priority, and the Town is pursuing additional assistance through county, state, and federal programs. The Town's engineer is also developing a Facility Plan to identify long-term system upgrades, funding strategies, and implementation schedules. Quarterly progress reports will be submitted to the DEP to document milestones and funding developments.

Discussion:

On September 2, 2026, Engineering Staff contacted the Town and spoke with the newly appointed Interim Mayor, Melvin Lindsey. The Petitioner resigned from the Mayor position in July, 2026. Mayor Lindsey informed Staff that there were currently no new or unresolved customer complaints associated with the vacuum system. He reported that the treatment plant has made progress and continues to address the action items identified in the POCA in an effort to maintain compliance.

The Mayor also reported that a new office manager has been hired and is being trained by the previous office manager. Monthly Board meetings have resumed, and engineering and financial updates have been provided. According to the Mayor, these efforts have been supported by the customers. The Town continues to pursue grant funding and other financial resources to facilitate improvements and ultimately replacement of the vacuum system with a gravity sewer system.

Engineering Staff also spoke to the DEP regarding the POCA and the Town's operation and maintenance of the vacuum system. The DEP supports the Town's work efforts to address its non-compliance issues. The POCA was approved in July, 2026, and based on the information available to Staff, the Town appears to be working to complete the action items to which it previously committed.

Recommendation:

Engineering Staff believes the filing of this petition is premature because the Town's POCA was only recently approved in July 2026. The Commission's Final Order in the twenty (20) complaint cases became final on June 29, 2026. Accordingly, Engineering Staff opines the Town has not been afforded sufficient time to implement the recommendations made in the previous complaint cases or to demonstrate progress under the POCA approved in July 2026.

After discussions with both the DEP and the Town's Interim Mayor, Engineering supports the approved POCA and believes that, if the Town follows the plan and provides the required quarterly progress updates, the wastewater collection and treatment system should achieve greater stability from an operations and maintenance perspective.

Vacuum collection systems present ongoing reliability and maintenance challenges, particularly when a system has not been properly maintained over an extended time period. However, the Facility Plan is expected to address a phased approach for transitioning to a new gravity sewer system. In the interim, Staff opines that the reporting requirements established under the POCA adequately address the Town's

day-to-day operation and maintenance responsibilities and provide an appropriate framework for achieving compliance.

In the absence of any significant financial issues identified during the Utilities Division's review, Engineering Staff recommends that this case be dismissed to allow the Town adequate time to implement and demonstrate progress under the approved POCA.

LAB

Public Service Commission of West Virginia

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0300
Fax: (304) 340-0325

September 9, 2026

Deborah Heflin
PO Box 346
Worthington, WV 26591-0346

The Honorable Melvin Lindsey
Mayor, Town of Worthington
PO Box 265
Worthington, WV 26591-0265

RE: Case No. 26-0715-S-P
Town of Worthington

Dear Ms. Heflin and Mayor Lindsey:

Pursuant to Rule 4.3.3 of the Commission's Rules of Practice and Procedure, we are enclosing a copy of the Staff memorandum in this matter. Any responses must be submitted to the Executive Secretary's Office in writing within 10 days of this date, unless directed otherwise.

Your failure to respond in writing to the utility's answer, Staff's recommendations, or other documents may result in a decision in your case based on your original filing and the other documents in the case file, without further hearing or notice.

When you provide an email address, you will automatically receive docket notifications as documents are filed in this proceeding. The email notifications allow recipients to view a document within an hour from the time the filing is processed. If you have not provided your email address, please send an email to **caseinfo@psc.state.wv.us** and state the case number in the email subject field.

Documents submitted to the Public Service Commission of West Virginia may be 1) uploaded to its public website, 2) subject to public disclosure under the West Virginia Freedom of Information Act, and/or 3) subject to disclosure under the West Virginia Open Governmental Proceedings Act. Do not submit personal information with your filings. The Commission is not responsible for confidential or personal information included with your submission. A list of personal information is available here: **http://www.psc.state.wv.us/Privacy_Policy/WhatisPII.htm**

Sincerely,

Karen Buckley

Karen Buckley
Executive Secretary

KB/s
Enc. Memo