



**Metropolitan Water
Reclamation District
of Greater Chicago**

Procedural Rules Governing Show Cause Proceedings and Petition for Administrative Hearing Proceedings

**Brought Pursuant to the Sewage and Waste Control
Ordinance of the Metropolitan Water Reclamation
District of Greater Chicago**



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I. Scope of Rules

These Rules, entitled “Procedural Rules Governing Show Cause Proceedings and Petition for Administrative Hearing Proceedings Brought Pursuant to the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago”, pertain to two types of administrative proceedings before Board-appointed hearing officers that are available under the Sewage and Waste Control Ordinance (“Ordinance”) of the Metropolitan Water Reclamation District of Greater Chicago (“District”).

The first type pertains to enforcement proceedings initiated by the District pursuant to Article VI, Sections 3-6 of the Ordinance, which are referred to hereinafter as “Show Cause Proceedings” and “Expedited Hearings to Plug Sewer”.

The second type pertains to administrative appeals brought pursuant to Article VI, Section 7b of the Ordinance, wherein a person has served with the District a written petition for administrative hearing requesting that a hearing officer review a determination of the Director of the Monitoring and Research Department (“Director”), which are referred to hereinafter as “Petition for Administrative Hearing Proceedings”.

II. Rules Applicable to All Administrative Proceedings before a Hearing Officer

A. Appearance

1. Any party to an administrative proceeding before a Board-appointed hearing officer other than the District shall file an appearance with the District’s Clerk either prior to or at the first proceeding before the hearing officer.

2. The Appearance may be filed by an individual if an individual is the party. For any non-individual party, including but not limited to corporations, limited liability companies, partnerships, associations, not-for-profits or other corporate or non-corporate business entities, the

Appearance must be filed by an attorney licensed to practice law in the State of Illinois and in good standing with the Illinois Supreme Court.

B. Filing and Service of Documents

1. Appearances, pleadings, petitions, notices, motions, discovery, affidavits, memoranda, briefs, orders, transcripts, and all other such documents permitted or required to be filed in an administrative proceeding governed by these Rules shall be filed with the Clerk of the District during normal business hours (8:45 a.m. to 4:30 p.m.) at 100 East Erie, 2nd Floor, Chicago, Illinois 60611. Exhibits exchanged between the parties shall not be filed by the parties at the time of exchange. Exhibits that have been admitted into evidence or sought to be admitted via a proper offer of proof shall be filed with the Clerk upon the hearing officer's issuance of a Report to the Board of Commissioners ("Board"). All orders entered by the hearing officer shall be filed with the Clerk on or around the date of entry.

2. Files maintained by the Clerk shall be open for inspection during normal business hours (8:45 a.m. to 4:30 p.m.) upon 48-hours advance written request.

3. Documents will be deemed accepted by the Clerk for filing upon the Clerk's actual receipt of the document, whether served by certified, registered, or first-class U.S. mail, third-party commercial carrier or messenger service, or personal service. Filing by electronic submission will not be accepted unless expressly authorized by the Clerk.

4. The administrative proceeding case name and number shall appear on the first page of all documents filed with the Clerk. Documents that do not contain the case name and number will not be accepted for filing.

5. A copy of all documents filed with the Clerk shall be served by the party filing the document upon the hearing officer and all parties of record by certified, registered, or

first-class U.S. mail, third-party commercial carrier or messenger service, or personal service. Electronic service shall also be permitted if agreed to by the parties and the hearing officer.

6. Each document filed shall be accompanied by a certificate of service attesting that the hearing officer and all parties of record are in the process of being served, the date the document was placed in the U.S. mail or otherwise delivered, and the manner of service. If served by U.S. mail, the document will be considered served on the date of delivery or four (4) calendar days after the document is placed in the U.S. mail for delivery if the delivery date is not tracked, recorded, or otherwise made known by the United States Postal Service. If served by third-party commercial carrier, messenger or personally, the document is considered served on the date of delivery. If served by electronic service, subject to the above conditions, the document is considered served on the date of transmission.

C. Hearing Officers

1. The Board shall establish a panel of independent hearing officers to conduct all hearings on administrative proceedings under the Ordinance. The hearing officers shall be attorneys licensed to practice law in the State of Illinois and in good standing with the Supreme Court of Illinois.

2. Hearing officers will disclose to the parties any matter that could be considered a conflict of interest with their duty to render fair and impartial Reports to the Board. If the hearing officer has a conflict, the hearing officer will disqualify himself or herself from continued participation in the proceedings and another hearing officer will be appointed.

3. The hearing officer shall refrain from engaging in any *ex parte* communication with either party or their attorney, except by express agreement of the parties or for non-substantive communication involving scheduling or procedure.

4. If a hearing officer becomes unavailable to conduct a scheduled evidentiary hearing, the District may appoint another hearing officer to replace the unavailable hearing officer.

D. Motions

1. All pre-hearing motions, including routine and dispositive motions, shall be in writing, filed with the Clerk and served on the other party and the hearing officer. The non-moving party may file a written response to the motion within fourteen (14) calendar days of receipt of the motion or elect to make an oral response at the motion's hearing date. The parties can agree to different filing dates pursuant to a scheduling order approved by the hearing officer.

2. Every motion shall clearly state the reasons for and grounds upon which the motion is made and shall contain a statement of the relief sought.

3. Motions for continuance of any evidentiary hearing must be made in writing, state the grounds for the motion and list dates within the following thirty (30) calendar days, absent a showing of exceptional circumstances, when the moving party is available to attend the evidentiary hearing. Motions for continuance shall be filed with the Clerk and served on the other party and the hearing officer at least seven (7) calendar days prior to the scheduled beginning of the evidentiary hearing. If the motion is granted, the hearing officer will schedule a new date for the evidentiary hearing.

4. Motions for continuance of the evidentiary hearing made less than seven (7) calendar days of the scheduled date, and all subsequent requests for a continuance after an initial request for a continuance has been granted, shall be made in person before the hearing officer at the scheduled evidentiary hearing. If the motion for continuance is granted by the hearing officer, the hearing officer shall order the party necessitating the continuance to pay all costs of the hearing that are caused by the continuance, including court reporter costs and hearing officer fees.

5. The hearing officer shall rule upon all pending motions in writing prior to the evidentiary hearing, at the evidentiary hearing or in the hearing officer's Report.

E. Discovery

1. Absent any provision under these Rules prohibiting discovery, either party may serve the other party with a maximum of fifteen (15) written interrogatories, including subparts, and a request to produce for inspection and copying specified documents or photographs that are relevant to the subject matter of the action, no more than fourteen (14) calendar days after the Pre-Hearing Conference. Answers to interrogatories and responses to requests to produce, including objections, shall be served on the other party within fourteen (14) calendar days after the mailing or delivery of the interrogatories and requests to produce. The parties can agree to different response times pursuant to a scheduling order approved by the hearing officer. Copies of the answers to interrogatories and responses to requests to produce shall be filed with the Clerk on or about the date they are served.

2. No other discovery shall be allowed, and no discovery of any kind shall be allowed for petitions for an administrative hearing brought pursuant to Article VI, Section 7b of the Ordinance if the hearing officer determines at the initial conference that there is no material factual issue raised by the appeal and the appeal can properly be decided as a matter of law.

F. Hearings

1. All hearings governed by these Rules, including the Pre-Hearing Conference (excluding informal settlement discussions), shall be conducted on the record and recorded stenographically. Hearing transcripts shall be made available to any member of the public or any party to the hearing upon payment of the usual charges for transcripts. All testimony at evidentiary hearings shall be sworn to under oath.

2. Unless otherwise provided in these Rules, if the case proceeds to an evidentiary hearing, the hearing officer will normally schedule the hearing to be held on a date within sixty (60) calendar days after the Pre-Hearing Conference. The parties may agree to a later date for the evidentiary hearing, subject to the approval of the hearing officer.

3. The hearing officer may issue, in the name of the Board, Notices of Hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.

4. At the evidentiary hearing, the hearing officer shall conduct a fair hearing, avoid delay, maintain order and ensure development of a clear, complete and concise record. The hearing officer shall give each party the opportunity to present evidence and cross-examine witnesses, and may examine witnesses. The hearing officer may establish reasonable limits on the duration of testimony and questioning of witnesses, and limit repetitious or cumulative testimony and questioning. The hearing officer may continue the hearing as may be necessary. Hearings shall be subject to the Illinois Rules of Evidence as they pertain to administrative hearings.

G. Written Position Statements

1. At the conclusion of any evidentiary hearing, the hearing officer may order each party to submit a written position statement not exceeding fifteen (15) pages detailing the party's position in the case, a statement of the relevant facts and evidence, the governing law, and its proposed findings.

2. In Petition for Administrative Hearing Proceedings, if the hearing officer determines at the initial conference that no evidentiary hearing, referred to as "Petition Hearings", is necessary as the petition raises no material factual issue, in lieu of a Petition Hearing, each party shall submit a written position statement not exceeding fifteen (15) pages detailing the party's

position in the case, a statement of the relevant facts and evidence, the governing law, and its proposed findings. The written position statement shall be filed with the Clerk no less than fourteen (14) calendar days prior to oral argument on the petition, unless otherwise ordered by the hearing officer.

H. Hearing Officer's Report

1. All contested administrative proceedings shall be decided by the issuance of a written Report signed by the hearing officer, which shall be based upon the preponderance of evidence in the record and include findings of fact, conclusions of law, and orders, and, if violations are proven at a Show Cause Hearing, recommended civil penalties.

2. The hearing officer shall serve the parties with a copy of the Report for filing with the Clerk no later than thirty (30) calendar days from the later of the following dates, whichever is applicable: the date of the evidentiary hearing, the date of filing of written position statements, the date of oral argument on a petition that does not proceed to an evidentiary hearing, or the date of oral argument on a dispositive motion if the motion is granted.

3. If the hearing officer notifies the parties of the inability to submit a timely Report, the District may reassign the matter to another hearing officer who shall either reconvene the evidentiary hearing or issue a Report based upon the record of the initial evidentiary hearing. The Report may be based on the record if there was no issue in the hearing regarding the credibility of witnesses and the new hearing officer states that fact in the Report. The new hearing officer will be the next available hearing officer on the District's roster of hearing officers.

I. Transmitting the Report to the Board

1. The District shall transmit the Report to the Board, and make available to the Board a complete record of the evidentiary hearing, within thirty (30) calendar days of its receipt of the Report.

2. The Report transmitted to the Board must be filed with the Clerk and a file-stamped copy shall be provided to each party.

J. Review of the Report by the Board

1. The Board shall either approve or disapprove the Report, including the hearing officer's findings of fact, conclusions of law, orders, and, if applicable, recommended civil penalties.

2. If the Report is approved by the Board, it shall constitute a final order of the Board.

3. If the Report, including its findings of fact, conclusions of law, orders or recommended civil penalties, is disapproved by the Board in any way, the Board shall remand the matter to the hearing officer with instructions for further proceedings.

4. If the Board does not approve or disapprove the Report within two regularly scheduled Board meetings following its receipt of the Report, the Report will be deemed disapproved and remanded to the hearing officer for further proceedings, though the parties may ask the Board to provide instructions for the hearing officer on remand.

5. If the Report is remanded to the hearing officer and no additional evidence or testimony is required, the record compiled in the evidentiary hearing shall be reviewed by the hearing officer, who shall then submit a revised Report, consistent with the Board's instructions, within thirty (30) calendar days of the date that the matter was remanded.

6. Upon remand, the hearing officer shall also have the right to reconvene the evidentiary hearing for the purpose of taking further evidence. In such instance, the hearing officer will submit a revised Report to the Board within thirty (30) calendar days of the conclusion of the reconvened hearing.

7. Revised Reports that are submitted to the Board are subject to the same procedures of this Section stated above.

8. The District shall serve a copy of the Board's final order on all other parties and the hearing officer within thirty (30) calendar days of the Board's final approval by certified, registered, or first-class U.S. mail, third-party commercial carrier or messenger service, or personal service. Electronic service shall also be permitted if agreed to by the parties and the hearing officer.

9. Civil penalties specified in the Report shall be paid within thirty-five (35) calendar days after the person against whom the penalties were imposed receives a written copy of Report, unless that person seeks judicial review under Section II.L of these Rules.

K. Review of Agreed Orders of Settlement by the Board

1. Any agreed order of settlement entered into by the parties and approved by the hearing officer is subject to Board approval.

2. The Board shall either approve or disapprove the agreed order of settlement. If the agreed order of settlement is approved, it shall constitute a final order of the Board. If the agreed order of settlement is disapproved, the Board shall remand the matter to the hearing officer for further proceedings.

3. If the Board does not approve or disapprove the agreed order of settlement within two regularly scheduled Board meetings following receipt of the agreed order of settlement,

the agreed order of settlement will be deemed disapproved and remanded to the hearing officer for further proceedings.

L. Judicial Review

1. The Administrative Review Law (735 ILCS 5/3-101 et seq.), and the rules adopted under that Law, shall govern all proceedings for the judicial review of final orders of the Board issued under these Rules.

2. If the person seeks judicial review of any final order assessing civil penalties, the person shall, within thirty-five (35) calendar days after the date of the final order of the Board, pay the amount of the civil penalties into an escrow account maintained by the District for that purpose or file a bond guaranteeing payment of the civil penalties in the event that the civil penalties are upheld on review.

III. Additional Rules for Show Cause Proceedings and for Expedited Hearings to Plug Sewer

A. Submittal of Recommendation for Show Cause Hearing to the Law Department

1. In the event the Executive Director orders any person to show cause before the Board why they have failed or refused to comply with a Cease and Desist Order issued by the District, a Recommendation for Show Cause Hearing signed by the Executive Director will be submitted to the Law Department.

2. Upon receipt of the signed Recommendation for Show Cause Hearing, the Law Department will file with the Clerk a Show Cause Complaint and a Notice of Pre-Hearing Conference, and will assign a case number and hearing officer to the matter.

B. Show Cause Complaint and Notice of Pre-Hearing Conference

1. The Show Cause Complaint shall set forth each alleged violation of the Ordinance and the District's prayer for relief. The Notice of Pre-Hearing Conference shall set forth the date, time and place of the Pre-Hearing Conference.

2. The District will serve the Show Cause Complaint and the Notice of Pre-Hearing Conference on the offending party in the manner provided under Article IX, Section 2 of the Ordinance. The Pre-Hearing Conference shall be scheduled to take place at least fourteen (14) calendar days after service of the Notice of Pre-Hearing Conference.

3. The District shall be designated as the Complainant, and the offending party served with the Show Cause Complaint and the Notice of Pre-Hearing Conference shall be designated as the Respondent.

C. Pre-Hearing Conference in Show Cause Proceedings

1. A Pre-Hearing Conference shall be held at the date, time and place set forth in the Notice. The Respondent's attorney and an officer or employee of the Respondent with authority to bind the company must be physically present at the Pre-Hearing Conference.

2. At the Pre-Hearing Conference, the parties will have the opportunity to discuss the case informally and the possibility of settlement. Informal settlement discussions between the parties and the hearing officer shall be conducted off the record.

3. If a settlement is reached, the terms shall be included in an agreed order of settlement, which shall be subject to the approval of the hearing officer and the Board. An agreed order of settlement can be presented to the hearing officer at any mutually agreed upon date. The Pre-Hearing Conference can be continued in the furtherance of a potential settlement by agreement of the parties and approval by the hearing officer.

4. If a settlement is not reached, at the conclusion of the Pre-Hearing Conference, the parties shall submit a scheduling order to the hearing officer for approval, which shall include the date of the Show Cause Hearing, the date to answer or otherwise plead, a discovery schedule, the deadline for filing dispositive motions including for summary judgment, and the date by which the parties shall exchange trial exhibits and a list of witnesses they intend to call to testify at the Show Cause Hearing.

5. In addition, the District will personally serve at the Pre-Hearing Conference a Notice of Show Cause Hearing on the Respondent setting the matter for a Show Cause Hearing. If the Respondent and its attorney do not appear at the Pre-Hearing Conference, the Notice of Show Cause Hearing shall be served on the Respondent pursuant to Section II.B.5 of these Rules. The Notice of Show Cause Hearing will specify the date, time and place of the Show Cause Hearing. A copy of the Notice of Show Cause Hearing shall be filed with the Clerk and served upon the hearing officer.

6. Any admissions or declarations against interest, written or oral, made by either party at the Pre-Hearing Conference shall not be binding and shall not be admissible for any purpose at the Show Cause Hearing, unless otherwise agreed to by the parties in writing.

D. Answer to the Show Cause Complaint

1. Unless otherwise provided in a scheduling order agreed to by the parties and approved by the hearing officer, the Respondent shall file an Answer to the Show Cause Complaint or otherwise plead no later than fourteen (14) calendar days after the date of the Pre-Hearing Conference.

2. Should the Respondent fail to timely file an Answer or otherwise plead, each allegation in the Show Cause Complaint shall be deemed admitted.

E. Show Cause Hearings

1. All parties and their attorneys must be physically present at the Show Cause Hearing. Remote participation by any witness or other person shall only be allowed if approved by the hearing officer for good cause shown.

2. The Show Cause Hearing shall be conducted in conformity with Section II.F of these Rules above. The burden is on the District to prove by a preponderance of the evidence that the violation(s) occurred.

3. If violations are proven, civil penalties shall be assessed in accordance with Article VI, Section 3 of the Ordinance. No amount less than the mandatory minimum amount per violation as contained therein shall be assessed. The hearing officer shall also order that the Respondent reimburse the District for court reporter costs and hearing officer fees as provided in Article VI, Section 5 of the Ordinance.

4. In determining the appropriate civil penalties to be imposed within the civil penalty range provided in Article VI, Section 3 of the Ordinance, the hearing officer shall take into consideration all the facts and circumstances bearing on the activities involved as shown by the record produced at the evidentiary hearing. The hearing officer may consider any matters of record, in mitigation or aggravation of the amount of the civil penalties, including, but not limited to:

- a. the number, duration, and gravity of the violations;
- b. whether the Respondent has achieved full compliance with the Ordinance and federal pretreatment regulations to date;
- c. whether the violations were the result of intentional conduct and/or gross neglect;
- d. the presence or absence of due diligence and good faith efforts on the part of the Respondent to comply with the requirements of the Ordinance and federal pretreatment regulations;

- e. any economic benefits received by the Respondent from the violations or by delaying compliance with the Ordinance;
- f. the impact that the violations have on the District's sewerage systems, sewage treatment facilities, the waters under the jurisdiction of the District, or the public health and safety that the Ordinance was designed to protect;
- g. the Respondent's prior history of noncompliance with the Ordinance or other District ordinances;
- h. the amount of civil penalties that will serve to deter further violations by the Respondent or to otherwise aid in enhancing compliance with the Ordinance by the Respondent and other persons similarly subject to the Ordinance; and
- i. the Respondent's ability or inability to pay civil penalties beyond the mandatory minimum amount.

5. If the District requests revocation of the Respondent's Discharge Authorization, the hearing officer may consider the above factors and any other factors relevant to the issue, including the District's opinion as to whether continued discharges from the Respondent's facility will negatively impact the District's sewerage systems, sewage treatment facilities, or the waters under the jurisdiction of the District, or will otherwise threaten the public health and safety that the Ordinance was designed to protect.

6. The District may alternatively request that the Discharge Authorization be modified in a way that prevents such harm.

F. Additional Show Cause Violations

1. Additional Show Cause violations are those that occur after the last cited violation in the Show Cause Complaint but before the Report is presented to the Board.

2. The District may amend the existing Show Cause Complaint to include such additional violations or may elect to commence new Show Cause Proceedings.

3. If the District elects to commence new Show Cause Proceedings, they will be initiated by a new Show Cause Complaint and Notice of Pre-Hearing Conference, be conducted in accordance with these Rules, and be assigned to the same hearing officer.

4. If the District elects to amend the existing Show Cause Complaint, the Respondent shall have all rights provided in these Rules, including to file an amended answer, conduct written discovery on the additional violations, and amend its list of witnesses and provide additional trial exhibits, consistent with these Rules. The hearing officer may continue the Show Cause Hearing as necessary to satisfy these procedures.

G. Expedited Hearings to Plug Sewer for Violations of Board Orders

1. Any Expedited Hearing to Plug Sewer brought pursuant to Article VI, Section 6 of the Ordinance, wherein the Executive Director has ordered the Respondent to cease the discharge of industrial waste upon finding that a final order of the Board entered after a Show Cause Hearing has been violated, shall be assigned to the same hearing officer who presided over the initial Show Cause Proceedings, if available.

2. The Executive Director's order and any documents filed with the Clerk in such proceedings shall be filed under the same caption as the underlying Show Cause Proceedings.

3. The Expedited Hearing to Plug Sewer shall be conducted at the earliest opportunity and in conformity with Section II.F of these Rules above. Absent compelling circumstances, no Pre-Hearing Conference, responsive pleadings, or written discovery shall be allowed.

4. The Executive Director's order will be served on the Respondent pursuant to Article IX, Section 2 of the Ordinance. The Expedited Hearing to Plug Sewer shall be scheduled no less than seven (7) calendar days after the order has been served.

5. At least five (5) calendar days prior to the commencement of the Expedited Hearing to Plug Sewer, the parties shall exchange trial exhibits and a list of witnesses they intend to call to testify at the hearing.

6. All parties and their attorneys must be physically present at the Expedited Hearing to Plug Sewer. Remote participation by any witness or other person shall only be allowed if approved by the hearing officer for good cause shown.

7. The burden is on the District to prove by a preponderance of the evidence that a violation of a final order of the Board has occurred.

8. Within seven (7) calendar days after the conclusion of the Expedited Hearing to Plug Sewer, the hearing officer shall issue a Report, including findings of fact, conclusions of law, and recommended orders, which shall be filed with the Clerk and transmitted to the Board.

9. If the Board, after reviewing the Report's findings and recommendations and the record produced at the Expedited Hearing to Plug Sewer, determines that the Respondent has violated a final order of the Board, the Board may authorize the plugging of the Respondent's sewer.

10. The District shall provide written notice of the Board's order authorizing the sewer's plugging to the Respondent, as well as the owner of record of the real estate and other parties known to be affected, not less than ten (10) calendar days prior to plugging the sewer.

11. The foregoing provisions for plugging the sewer shall be in addition to and not in derogation of any other remedy, in law or in equity, that the District may have to prevent violation of its ordinances and orders of the Board.

IV. Additional Rules for Petition for Administrative Hearing Proceedings

A. Submittal of Petition for Administrative Hearing to the Law Department

1. Petitions for an administrative hearing before a hearing officer brought pursuant to Article VI, Section 7b of the Ordinance must comply with all of Section 7's requirements, including timely requesting a conference with the Director of Monitoring and Research ("Director") pursuant to Section 7a, then timely serving a written petition on the District seeking to appeal the Director's determination pursuant to Section 7b. Petitions that do not satisfy these requirements will not be referred to a hearing officer, and the District shall provide written notice to that effect on the party making the faulty petition.

2. Petitions that satisfy the requirements of Article VI, Section 7 of the Ordinance will be submitted to the Law Department, which will file a Notice of Pre-Hearing Conference with the Clerk, and assign a case number and hearing officer to the matter within thirty (30) calendar days of service of the petition on the District.

3. A copy of the petition and any exhibits presented during the conference with the Director shall also be filed with the Clerk.

B. Notice of Pre-Hearing Conference

1. The Notice of Pre-Hearing Conference shall set forth the date, time and place of the Pre-Hearing Conference.

2. The District will serve a copy of the Notice of Pre-Hearing Conference on the party that submitted the petition in the manner provided under Article IX, Section 2 of the Ordinance. The Pre-Hearing Conference shall be scheduled to take place at least fourteen (14) calendar days after service of the petition on the District.

3. The party that submitted the petition shall be designated as the Petitioner and the District shall be designated as the Respondent.

C. Pre-Hearing Conference

1. A Pre-Hearing Conference shall be held at the date, time and place set forth in the Notice. The Petitioner's attorney and an officer or employee of the Petitioner with authority to bind the company must be physically present at the Pre-Hearing Conference.

2. At the Pre-Hearing Conference, the parties will have the opportunity to discuss the case informally and the possibility of settlement. Informal settlement discussions between the parties and the hearing officer shall be conducted off the record.

3. The parties shall also discuss whether the petition raises any material factual issue or can be decided as a matter of law without an evidentiary hearing.

4. If the parties agree, or the hearing officer determines, that there is no material factual issue, the hearing officer shall set a briefing schedule for each party to file a written position statement and a date for oral argument. The hearing officer may require the parties to provide written stipulations as to the undisputed facts and evidence of the case prior to the filing of the written position statements.

5. If there is a material factual issue, the parties shall discuss limiting discovery and the scope of the Petition Hearing to the facts that remain at issue. In such instance, the hearing officer may require the parties to provide written stipulations as to the undisputed facts and evidence of the case and may order that all discovery and the Petition Hearing be limited to the material facts at issue.

6. If a settlement is reached, the terms shall be included in an agreed order of settlement, which shall be subject to the approval of the hearing officer and the Board. An agreed order of settlement can be presented to the hearing officer at any mutually agreed upon date. The

Pre-Hearing Conference can be continued in the furtherance of a potential settlement upon agreement of the parties and approval by the hearing officer.

7. If the Petitioner agrees to voluntarily withdraw its petition, the parties shall prepare a written order of voluntary dismissal and submit it to the hearing officer for approval. The order shall be a final order with no Board review.

8. If a settlement is not reached and the appeal is not voluntarily withdrawn, at the conclusion of the Pre-Hearing Conference, the parties shall submit a scheduling order to the hearing officer for approval, which shall include the date of the Petition Hearing, a discovery schedule, the deadline for filing any dispositive motions including for summary judgment, and the date by which the parties shall exchange trial exhibits and a list of witnesses they intend to call to testify at the Petition Hearing.

9. No answer to the petition shall be required or filed, though the District may move to dismiss the petition based on any grounds provided in the Illinois Code of Civil Procedure.

10. Any admissions or declarations against interest, written or oral, made by either party at the Pre-Hearing Conference shall not be binding and shall not be admissible for any purpose at the Petition Hearing, unless otherwise agreed to by the parties in writing.

D. Petition Hearings

1. All parties and their attorneys must be physically present at the Petition Hearing. Remote participation by any witness or other person shall only be allowed if approved by the hearing officer for good cause shown.

2. The scope of the Petition Hearing shall be limited to the issues raised and relief sought by the Petitioner in its written request for a conference with the Director pursuant to Article VI, Section 7a of the Ordinance. No sampling data, technical information, and documents

may be introduced by the Petitioner in the proceedings before the hearing officer that were not submitted by the Petitioner during the conference with the Director. The scope shall further be limited to the extent the hearing officer has ordered at the Pre-Hearing Conference that the Petition Hearing be limited to the material facts at issue.

3. The Petition Hearing shall be conducted in conformity with Section II.F of these Rules above. The burden is on the Petitioner to prove that it is entitled by law to the relief requested in the petition by a preponderance of the evidence.

V. Passage by the Board and Repeal of Previous Rules

These Rules were ratified and approved by the Board at its regularly scheduled public meeting on February 5, 2026. All prior versions of these Rules, including the “Rules Governing the Proceedings, Assessment of Civil Penalties, and Issuance of Orders Under the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago” approved by the Board on July 9, 1998, are hereby nullified in their entirety and replaced and superseded entirely by these Rules.

VI. Savings Clause

If the provisions of any section, paragraph or subparagraph of these Rules are declared unconstitutional or invalid by a final unappealable decision of any court of competent jurisdiction, the provisions of the remaining sections, paragraphs and subparagraphs shall continue in full force and effect.

VII. Effective Date

These Rules shall take effect immediately upon passage by the Board.

Dated: This _____ day of _____, 2026.

Approved:

Kari K. Steele, President
Board of Commissioners
Metropolitan Water Reclamation of Greater Chicago

Approved as to Form and Legality:

Susan T. Morakalis, General Counsel

Christopher M. Murray, Head Assistant Attorney