

DENVER BOARD OF WATER COMMISSIONERS

Meeting Date: September 12, 2012

Board Item: V-B-4

**Amendment to Chapter 17 of the Operating Rules  
Regarding Appeal Hearing Procedures**

Action by Consent

Action

Information

On June 13, 2007, the Board adopted Chapter 17 of the Operating Rules, which established an internal hearing and appeal process to be applied to disputes under many of Denver Water’s contracts. The process described in the Rule anticipated a limited exchange of information and discovery in connection with a hearing, in order to facilitate a simpler, quicker resolution of contract disputes.

It has become apparent that a party to a dispute may acquire information through means other than Chapter 17, resulting in a potential imbalance in the information available to the other party and an unfair advantage in the hearing. For these reasons, Chapter 17 should be amended to allow the hearing officer to correct any inequities in the availability of information in the hearing process.

Operating Rule 17.04.4 should be amended to add the italicized language below to the last sentence in the section:

*No other pre-hearing discovery will be allowed unless one party has previously acquired documents related to the hearing under the Colorado Open Records Act or by other means, in which case the hearing officer may allow additional discovery to the other party as necessary to remedy any imbalance in the information available to the parties.*

Recommendation:

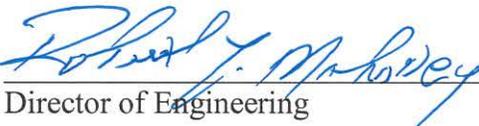
It is recommended that the Board adopt the proposed amendment to Operating Rule 17.04.4.

**Approvals:**

Respectfully submitted,

  
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General Counsel

  
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James S. Lochhead  
CEO/Manager

  
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Director of Engineering