



In The News

Mult-Housing News
April 2004



SPRING SUBMETERING REPORT

EPA Rescinds Water Testing Requirements

Submeterers Could See Substantial Savings

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Washington, D.C.—In what industry insiders say is a significant acknowledgement of the conservation benefits of submetering, the Environmental Protection Agency (EPA) in December 2003 issued a reversal of its policy requiring apartment communities that submeter to comply with the water quality testing procedures of the Safe Drinking Water Act. The requirement had been imposed on these apartment companies under the view that they were “selling” water as utilities do.

“For a long time, we’ve been disputing EPA’s assertion that just because a property owner bills for water it should, in fact, be a publicly regulated utility,” said Eileen Lee, vice president of environment for the National Multi Housing

Council/National Apartment Association. “The mere act of billing really doesn’t influence water quality.”

Added Kate Forsyth, energy manager for AvalonBay Communities Inc.: “With this ruling, the EPA concedes that submetering is a great way to promote conservation of water. So we will not be subject to the Safe Drinking Water Act and won’t have to test water, as the water being provided already meets the drinking water standards because it is coming from a regulated public water system.”

The rescinding of testing requirements (which were being enforced only in EPA’s Region Four: North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee and Kentucky) will undoubtedly save apartment owners and managers who sub-

meter there time and money, according to industry observers.

“Exact costs depended on the property, and each state had a slightly different permutation of what they required,” said Lee. But as a result of not having to abide by the testing requirements, “savings of several hundred dollars a month per property sounds reasonable,” Lee said.

Marc Treitler, general counsel for Viterra Energy Services and co-chair of the regulatory/legislative committee for the National Submetering and Utility Allocation Association (NSUAA), pointed out that in addition to the costs involved in testing, the sheer ambiguity of the requirements were a daunting obstacle to those who were submetering or considering doing so.

“The main problem, aside from the time and cost associated with

the water testing, was the uncertainty that companies such as Viterra and apartment owners around the country had. [There was] state-by-state enforcement, and you had trouble identifying which states were enforcing water testing and which were not," he said. "The new ruling takes away the ambiguity in enforcement."

And the complexity of water testing often forced owners and managers to hire trained professionals such as certified water operators to carry out evaluations. "These are not people apartment companies would hire in the routine course of business," said Lee. "They were people generally trained to work at utility companies."

Service providers, too, were heavily burdened by the requirements. Companies such as Wellspring International would often take on testing responsibilities on an owner's behalf to sweeten a contract.

"[The testing requirement] was a financial burden to service providers as well, many of which would take on the responsibilities of the owner to do the water quality testing as part of the service because they knew it was arduous for property owners," said Brian Brittsan, president of Wellspring. "So this [rul-

ing] helps Wellspring and our peers in the marketplace as it makes the value proposition that much more compelling because there is less compliance required and, as a consequence,



"[The testing requirement] was a financial burden to service providers," said Brian Brittsan, president of Wellspring International.

less expense and higher margins on the whole submetering process."

In an important exception, however, the EPA's ruling does not account for those properties that employ methods such as hot water allocation or ratio utility billing systems (RUBS) under the justification that, in the EPA's view, it remains unclear whether these methods promote water conservation.

For companies such as Viterra, which offers clients hot water allocation, RUBS and submetering options, this decision was a disappointment. "I like the ruling in general and I like the fact that it acknowledges the obvious conservation benefits of

submetering. The problem I have, and most people in the industry have, was that [the ruling] does not have the same effect on properties using what we call hot water allocation or RUBS," said Treitler.

Most apartment owners and managers around the country, including REITs, utilize all three billing methods, according to Treitler. "It just depends on the age of the property and configuration of the plumbing. In some instances you can't do anything but hot water allocation or RUBS, so those property owners, through no fault of their own, might be forced to conduct water testing," Treitler said. "If we are really talking about water safety, then whether or not hot water allocation conserves as much water as a traditional submetering method shouldn't have an effect on the protection of tenants in terms of the safety of water."

Still, the ruling is widely seen as a good first step in the right direction and a decision with a great deal of symbolic importance. "When we go into legislative sessions and need to talk about how submetering creates conservation, we have the EPA in agreement with us and that holds a lot of weight," commented Forsyth.