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The Authoritative Resource on Safe Water®

Regulatory Alert

To: AWWA Utility Members

From: AWWA Government Affairs

Date: October 23, 2008

Who:	Federal Trade Commission
What:	Change in date for utilities to be responsible for having a written program in place to help prevent identity theft
When:	Enforcement delayed to May 1, 2009

The Federal Trade Commission (FTC) has announced it will grant a six-month delay of enforcement of the "Red Flags" rule until May 1, 2009. This rule will require creditors and financial institutions to establish identify theft prevention programs that identify and detect warning signs, also known as "Red Flags," of identify theft. Utilities and a host of other businesses and institutions in the United States previously had until November 1, 2008, to have a written program in place.

The FTC also today released an Enforcement Policy Statement, available at <http://www.ftc.gov/os/2008/10/081022idtheftredflagsrule.pdf>, which further details the rationale behind this delay of enforcement. In summary, the FTC learned during outreach efforts that some entities and industries were uncertain about their coverage and responsibilities under the rule, and postponed enforcement to allow greater education and compliance.

Examples of Red Flags include unusual account activity, fraud alerts on a consumer report, or attempted use of suspicious account application documents. The FTC has listed 26 possible Red Flags.

The program was created in the Fair and Accurate Credit Transactions Act of 2003. While the bill does not mention utilities specifically, it says the Red Flag program applies to "financial

institutions" and "creditors" with "covered accounts." The FTC has determined that a creditor is "any entity that regularly extends, renews, or continues credit; any entity that regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who is involved in the decision to extend, renew, or continue credit."

An FTC rule notice further states that creditors include "utility companies," and that "where non-profit and government entities defer payment for goods and services, they, too, are to be considered creditors." A "covered account is an account used mostly for personal, family, or household purposes, and that involves multiple payments or transactions." The FTC further says that "utility accounts" are covered accounts. The notice is at <http://www.ftc.gov/bcp/edu/pubs/business/alerts/alt050.shtm>.

Questions about the rule may be directed by e-mail to RedFlags@ftc.gov.

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